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18 & 19 VICTORIÆ, CAP. XCIII.

AN ACT *to amend certain Acts relating to the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, and to the Supreme Courts of Judicature in India.*

[14*th August* 1855].

Preamble.

WHEREAS by Letters Patent of His late Majesty King *George* the Fourth His said late Majesty ordained that there should be within the Settlement of *Prince of Wales' Island, Singapore,* and *Malacca* a Court of Judicature to be holden before the Governor and the Resident Councillor for the time being of the Station where the Court should be held, as two of the Judges of the said Court, and before one other Judge called the Recorder of *Prince of Wales' Island, Singapore,* and *Malacca:* And whereas by Letters Patent of His late Majesty King *William* the Fourth, granted under the powers of the Act of the sixth and seventh years of His Reign, Chapter eighty-three, His said late Majesty granted to the said Court of Judicature the powers of a Court of Admiralty: And whereas by Letters Patent of Her present Majesty, granted in the present year of Her Reign, Her said Majesty has ordained that the said Court of Judicature should consist of two Courts or Divisions, one of which shall be holden within the Stations of *Singapore* and *Malacca* before the Governor or President and the Resident Councillor for the time being of the Station, where the same shall be held, and before one other Judge called the Recorder of *Singapore,* and the other of which Courts or Divisions shall be holden within the Station of *Prince of Wales' Island* before the said Governor or President and the Resident Councillor for the time being of the Station where the same shall be held, and before the other Judge, who shall be called the Recorder of *Prince of Wales' Island,* and that all the powers of the said Court of Judicature shall and may be exercised by each of the said Courts or Divisions, together with various other provisions concerning the same: And whereas, in consequence of the alteration made by the last-mentioned Letters Patent in the constitution of the said Court of Judicature, it is desirable to amend the several Acts of Parliament hereinafter mentioned: Be it enacted, &c.

Sections 5, 7, 13, 14 and 16 of 6 G. 4, c. 85, to apply to Recorders of Singapore and Prince of Wales' Island.

I. The provisions contained in the Statute of the sixth year of *George* the Fourth, Chapter eighty-five, Sections five, seven, thirteen, fourteen, and sixteen, respecting the Recorder of the Court of Judicature of *Prince of Wales' Island,* and respecting the grant of an allowance to him on retirement, and respecting the computation of the time of residence in case he shall be appointed a Judge of one of the Supreme Courts in *India* shall apply to the Recorder of *Singapore* and to the Recorder of *Prince of Wales' Island* respectively, and residence partly as one and partly as the other of such Recorders shall be reckoned as if such residence had been wholly in the same capacity: Provided always, that (save and except only in the case of the present Recorder of *Singapore,* who was appointed to the office of Recorder of *Prince of Wales' Island, Singapore,* and *Malacca* prior to the lastly-recited Letters Patent,) it shall not be lawful to grant to any Recorder of *Singapore* or Recorder of *Prince of Wales' Island* any larger retiring allowance than the sum of five hundred pounds, unless he shall have resided as Recorder for ten years, nor if he shall have resided for that period any larger allowance than the sum of eight hundred pounds.

Sum to be paid to Recorders for equipment and voyage.

II. In lieu of the sum which by the Act of the fifty-third year of *George* the Third, Chapter one hundred and fifty-five, Section eighty-nine, is directed to be paid to any Recorder of *Prince of Wales' Island* for the expenses of his equipment and voyage, the Court of Directors of the *East India* Company shall pay to the person who by the said Letters Patent of Her Majesty has been appointed Recorder of *Prince of Wales' Island*, and to every person to be hereafter appointed Recorder of *Singapore* or Recorder of *Prince of Wales' Island* who shall be resident in the United Kingdom at the time of his appointment, for the purpose of defraying the expenses of his equipment and voyage, the sum of five hundred pounds.

Court for Relief of Insolvent Debtors may be held by either of the Recorders.

III. The Court for Relief of Insolvent Debtors, which by the Statute of the eleventh and twelfth years of Her present Majesty, Chapter twenty-one, Section eighty-eight, is directed to be held within the said Settlement, may henceforth be held by the Recorder of *Singapore* and by the Recorder of *Prince of Wales' Island* respectively, each of whom is hereby empowered and required to hold such Court, and to appoint proper officers, assignees and examiners for enabling the provisions of such Act to be carried into effect, and to establish rules as to the advocates and attornies and agents who may practise in the said Court before such Recorder; and the several other powers given by the said Act to the Court of Judicature of *Prince of Wales' Island, Singapore*, and *Malacca* shall and may be henceforth exercised by the Governor of the said Settlement and the said Recorders, or by any two of them.

Act 6 & 7 W. 4, cap. 53, to apply to the present Charter, which is confirmed.

IV. The Act of the sixth and seventh years of King *William* the Fourth, Chapter fifty-three, for enabling His late Majesty, by Letters Patent, to grant Admiralty jurisdiction to the Court of Judicature of *Prince of Wales' Island, Singapore*, and *Malacca*, shall be construed to apply to the said Letters Patent or Charter of Her present Majesty, and such Charter is hereby in all respects ratified and confirmed.

As to allowances to Judges of the Supreme Courts in India on retirement.

V. And whereas doubts have been entertained whether the provisions of the Act of the Sixth *George* the Fourth, Chapter eighty-five, respecting the grant of allowances to the Judges of the Superior Courts in *India* on retirement, apply to cases where the required period of residence as a Judge has been partly as a Judge of one and partly as a Judge of another of the said Supreme Courts: Be it enacted, that for the purpose of the said last-mentioned provisions residence in *India* as a Judge of any of the said Supreme Courts (though such residence shall have been partly as a Judge of one of the said Supreme Courts and partly as a Judge of another of such Courts) shall be computed and reckoned as residence as a Judge of the Supreme Court to which the Judge shall belong at the time of his retirement: Provided always, that in the case of any Judge retiring from the Supreme Court of Judicature at *Fort William* whose period of residence in *India* as a Judge shall have been partly as a Judge of the Supreme Court at *Madras* or *Bombay*, it shall not be lawful to grant to such Judge any larger allowance than might have been granted if he had been during his whole period of residence a Judge of the Supreme Court at *Madras* or *Bombay*, unless he shall have resided as a Judge of the Supreme Court at *Fort William* for five years at the least.

Penalty for neglect to comply with Regulations, &c.

VII. In case of any neglect or refusal to comply with any of the provisions of this Act or any of the Regulations aforesaid, or to perform any stipulation in any of the contracts made with the passengers, the master of the ship, and any other person who may have been guilty of or have aided or abetted such neglect or refusal, shall each be deemed for each offence guilty of a misdemeanor.

Ship to be forfeited for clearing without emigration papers, or for forgery of such papers.

VIII. If any *Chinese* passenger ship clears out or proceeds to sea on any voyage exceeding seven days in duration without such emigration papers as aforesaid, or if the emigration papers of any *Chinese* passenger ship are forged or fraudulently altered, such ship shall, if she is a *British* ship, or if, not being a *British* ship, the offence is committed and the ship is seized in Her Majesty's dominions or in the territories of the *East India* Company, be forfeited to Her Majesty.

Penalties in addition to forfeiture.

IX. Every person who commits or aids or abets in committing any act or default by which any *Chinese* passenger ship may become liable to forfeiture shall be liable to a penalty not exceeding one hundred pounds for each offence.

Mode of enforcing forfeiture.

X. It shall be lawful for any Commissioned Officer on full pay in the Military or Naval Service of Her Majesty, or any *British* Officer of Customs, or any *British* Consul, to seize and detain any ship which has become subject to forfeiture as aforesaid, and bring her for adjudication before the High Court of Admiralty in *England* or *Ireland*, or any Court having Admiralty jurisdiction in Her Majesty's dominions or in the territories of the *East India* Company, and such Court may thereupon make such order in the case as it thinks fit, and may award such portion of the proceeds of the sale of any forfeited ship as it thinks right to the officer bringing in the same for adjudication, or to any persons damaged by the act or default which has rendered the ship liable to forfeiture.

Officer not liable for any seizure made on reasonable grounds.

XI. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the Judge or Court before whom any trial relating to such ship or such seizure or detention is held that there are reasonable grounds for such seizure or detention; but if no such grounds are shown, such Judge or Court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as he or it thinks just.

Fine may be substituted for forfeiture.

XII. It shall be lawful for the Court before which any ship liable to forfeiture under this Act is proceeded against to impose such a pecuniary penalty as to the same Court shall seem fit, in lieu of condemning the ship, and in such case to cause the ship to be detained until the penalty is paid, and to cause any penalty so imposed to be applied in the same manner in which the proceeds of the said ship, if condemned and sold by order of the Court, would have been applicable.

Mode of procedure in criminal cases.

XIII. All misdemeanors and other criminal offences punishable under this Act shall be dealt with, tried, and judged of in the same manner as misdemeanors and other offences punishable under the Merchant Shipping Act, 1854, and all the rules of law, practice, or evidence applicable to the last-mentioned misdemeanors and offences shall be applicable to misdemeanors and other offences under this Act.

Application of penalties.

XIV. Any Court, Justice, or Magistrate imposing any penalty under this Act for which no specific application is herein provided may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any *British* possession shall be paid over into the public Treasury of such possession, and form part of the public revenue thereof.

Written declarations of commanders, &c., *primâ facie* evidence

XV. In any legal proceeding taken under this Act or in respect of the bond hereinbefore required any document purporting to be the written declaration of any *British* Consul, or of the Commander of any of Her Majesty's Ships of War, or to be a copy of the proceedings of any Court of Justice, shall, without any proof of signature, be received in evidence, in case it shall appear that such copy or declaration, if produced in the United Kingdom, was officially transmitted to one of Her Majesty's Principal Secretaries of State, or, if produced in any colony, was officially transmitted to the Governor thereof: Provided always, that no person making such written declaration as aforesaid shall be capable of receiving a share of any penalty or forfeiture which shall be procured by such written declaration.

Short title.

XVI. This Act may be cited for any purpose whatever under the name of the "*Chinese* Passengers' Act, 1855."

Commencement of Act.

XVII. This Act shall come into operation as soon as it shall have been proclaimed in *Hong Kong* by the Governor thereof, or if not so proclaimed, on the first day of *January* next ensuing.

SCHEDULE (A).

Regulations respecting Chinese Passenger Ships.

Note.—The wilful and fraudulent breach of any of these Regulations by the person in charge of any Chinese passenger ship is punishable by forfeiture of the ship, and every person concerned in such breach is liable to a fine of one hundred pounds for each offence.

I. No Chinese passenger ship shall clear out or proceed to sea on any voyage of more than seven days' duration without a certificate from an Emigration Officer; and such certificate shall be in the form provided by the Chinese Passenger Act, 1855.

II. No Emigration Officer shall be bound to give such certificate in respect of any Chinese passenger ship till seven days after receiving notice that the ship is to carry passengers, and of her destination, and of her proposed day of sailing, nor unless there are on board a surgeon and interpreter approved by such Emigration Officer.

III. After receiving such notice the Emigration Officer shall be at liberty at all times to enter and inspect the ship, and the fittings, provisions, and stores therein, and any person impeding him in such entry or inspection, or refusing to allow of the same, shall be liable to a fine of not more than one hundred pounds for each offence.

IV. The Emigration Officer shall not give his certificate unless he shall be satisfied,—

(1.) That the ship is seaworthy, and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers:

(2.) That the space appropriated to the passengers in the 'tween decks contains at the least twelve superficial and seventy-two cubical feet of space for every adult on board; that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years:

(3.) That a space of five superficial feet per adult is left clear on the upper deck for the use of the passengers:

(4.) That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the following scale:—

DIETARY SCALE.

Rice	lbs	1½	per diem.	
Salted provisions,—				
Wholly pork, or	lb	½	do	
⅔ pork and ⅓ fish; or				
⅓ pork, ⅓ beef, and ⅓ fish				
Salted vegetable or pickles	„	½	do	
Water, imperial quarts		3	do.	
Firewood	lbs.	2	do	
Tea	oz.	½	do.	
		c		

(5.) That medicines and medical comforts have been placed on board according to the following scale:—

SCALE OF MEDICINES AND MEDICAL COMFORTS.

For every 100 passengers, and in like proportion for any greater or less number.

Calomel	3	oz.	
Blue pill	2	„	
Rhubarb powder	2	„	
Compound jalap powder	12	„	
Ipecacuanha powder	12	„	
Opium	2	„	
Dover's powder	2	„	
Magnesia	2	„	
Epsom salts	6	lbs.	
Chloride of lime	20	„	
Tartar emetic	4	drams.	
Quinine	2	oz.	
Antimonial powder	½	„	
Extract of colocynth, compound	1	„	
Carbonate of ammonia	1½	„	
Assafœtida	1	„	
Camphor	1½	„	
Camphorated liniment	16	„	
Catechu	2	„	
Prepared chalk	2	„	
Tincture of opium	8	„	
Turpentine	16	„	
Senna leaves	8	oz.	
Blistering plaister	8	„	
Sulphur sublimed	16	„	
Sulphur, ointment	12	„	
Linseed flour	4	lbs.	
Country soap	2½	oz.	
Castor oil	6	bottles	
Oil of peppermint	2	oz	
Adhesive plaister, spread	2	yards.	
Simple ointment	16	oz.	
Ringworm ointment	16	„	
Jeremie's opiate	2	oz. phial.	
Aromatic spirits of hartshorn	4	„	
Cholera pills in phial	12	drams.	
Cubebs powder	4	lbs.	
Sweet spirits of nitre	16	oz	
Copaiba	16	„	
Sulphate of copper	2	„	
Sulphate of zinc	1	„	
Lunar caustic	4	drams	
Lime juice	36	quarts.	
Rum or brandy	36	„	

INSTRUMENTS, &c.

1 Set of amputating and other surgical instruments (if there be any person on board competent to use them.)	1 Spatula.
1 One ounce glass measure.	1 Dressing scissors.
1 Minim glass measure.	1 Infusion box.
1 Pestle and mortar (Wedgewood.)	1 Quire of country paper.
1 Set of weights and scales (grains in box).	1 Penknife.
1 Set of common splints.	2 Metal bed pans.
1 Set of bleeding lancets.	2 Trusses for hernia, right and left.
1 Silver catheter.	2 Small syringes.
	4 Ounces prepared lint.
	2 Pieces cloth for bandages.

V. The master of any Chinese passenger ship being a British ship and proceeding on a voyage of more than seven days' duration shall, during the whole of the intended voyage, make issues of provisions, fuel, and water, according to the aforesaid dietary scale, and shall not make any alteration, except for the manifest advantage of the passengers, in respect of the space allotted to them as aforesaid, or in respect of the means of ventilation, and shall not ill-use the passengers, or require them (except in case of necessity) to help in working the vessel; and shall issue medicines and medical comforts, as shall be requisite, to the best of his judgment, and shall call at such ports as may be mentioned in the

Emigration Officer's clearing certificate for fresh water and other necessaries; and shall carry them without unnecessary delay to the destination to which they have contracted to proceed.

VI. The Emigration Officer shall not give his certificate until he shall have mustered the passengers, and have ascertained to the best of his power that they understand whither they are going, and comprehend the nature of any contracts of service which they have made; he shall also take care that a copy of the form of such contracts, or an abstract of their substance, signed by himself, is appended to the said certificate: If any of the passengers are in bad health, or insufficiently provided with clothing, or if the contracts are unfair, or if there is reason to suspect that fraud or violence have been practised in their collection or embarkation, he may detain the ship, and, if he shall think fit, may order all or any of the passengers to be re-landed.

SCHEDULE (B).

Emigration Officer's Certificate, &c.

I hereby authorize the Chinese passenger ship to proceed to sea for the port of in ; and I certify that the said ship can legally carry adults, and that there are on board passengers, making in all adults, *viz.*, men, women, male children, and female children, such children being between the ages of one and twelve years; that the space set apart and to be kept clear for the use of such emigrants is as follows:— On the upper deck, superficial feet, being [*here describe the space*], and in the between decks superficial feet, being [*here describe the space*]; that the ship is properly manned and fitted, and that the means of ventilating the part of the between decks appropriated to passengers are as follows, [*here describe the means of ventilation*]; that the ship is furnished with a proper quantity of good provisions, fuel, and water for days' issues to the passengers according to the annexed* dietary scale, and with a proper quantity of medicines, instruments, and medical comforts according to the annexed* scale of medical necessaries; that I have inspected the contracts between the emigrants and their intended employers (the terms of which are annexed to this certificate), and consider them reasonable; that no fraud appears to have been practised in collecting the emigrants; and that there are on board a surgeon † [and interpreter] approved by me, and designated [respectively and].

‡ [The master of the ship is to put into and for water and fresh vegetables].

(Signed) ,

Emigration Officer.

Dated this day of 18

* These scales must be those prescribed by the Regulations in Schedule A.

† In case the ship has been authorized to proceed without an interpreter omit the part between brackets, and add "and that the ship has been authorized to proceed without an interpreter."

‡ The part between brackets is to be inserted or not, as may be required.

SCHEDULE (C).

Form of Bond to be given by the Masters of Chinese Passenger Ships.

Know all men by these presents, That we are held and firmly bound unto our Sovereign Lady Queen Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, defender of the faith, in the sum of one thousand pounds of good and lawful money of Great Britain, to be paid to our said Sovereign Lady the Queen, Her Heirs and Successors; to which payment, well and truly to be made, we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, administrators, and every of them, firmly by these presents.

Sealed with our seals.

Dated this day of 18 .

Whereas by the Chinese Passenger Act, 1855, it is enacted, that before any Chinese passenger ship shall clear out or proceed to sea on a voyage of more than seven days' computed duration, the master thereof shall, with two sufficient sureties to be approved by an Emigration Officer, enter into a bond to her Majesty, Her Heirs and Successors, in the sum of one thousand pounds.

Now the condition of this obligation is this, that if (in respect of the ship , whereof is master) all and every of the requirements of the said Chinese Passenger Act, and of the Regulations contained in Schedule (A) to the said Act annexed, or enacted by the legislature of Hong Kong, shall be well and truly observed and performed [*in like manner as the same ought to be observed and performed in case the said ship were a British ship, and the said a British subject], then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered by the above-bounden and , in the presence of

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18 & 19 VICTORIÆ, CAP. CXIX, SEC. 99.

An Act *to amend the law relating to the carriage of passengers by sea.*

[14*th August* 1855.]

Power to the Governor General of India in Council, by any Act to be passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, surgeons, &c.,

XCIX. This Act shall not apply to any of the territories or places under the Government of the *East India* Company: It shall, however, be lawful for the Governor General of *India* in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorize the substitution, as respects such voyages, of other articles of food and provisions for those hereinbefore enumerated; and to declare the rule

* This clause to be inserted only in the case of a foreign Chinese passenger ship.

of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties hereinbefore given to or imposed upon the Emigration Officers and Officers of Customs in the United Kingdom; and to authorize the employment on board any ship of a medical practitioner duly qualified by law to practise as a Physician, Surgeon, or Apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner, and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such *Indian* Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said *Indian* Act or Acts shall be specified. The provisions of such *Indian* Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced: Every such *Indian* Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to *England*, to be laid before both Houses of Parliament, as in the case of any other law made by the Governor General in Council (*a*).

and to declare in what manner penalties, &c., may be sued for and recovered.

Indian Act may be enforced in the colonies in like manner as this Act.

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19 & 20 VICTORIÆ, CAP. CXIII.

AN ACT *to provide for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals.*

[29*th July* 1856.]

Preamble.

WHEREAS it is expedient that facilities be afforded for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals: Be it enacted, &c.

Order for examination of witnesses in this country in relation to any civil or commercial matter pending before a foreign tribunal.

I. Where, upon an application for this purpose, it is made to appear to any Court or Judge having authority under this Act that any Court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first-mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly; and it shall be lawful for the said Court or Judge, by the same order, or for such Court or Judge or any other Judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order, for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and

(*a*). The power given by this section has been partially exercised by Act No. II of 1860 (*to amend the law relating to the carriage of passengers by sea*).—*Ed.*

to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just; and any such order may be enforced in like manner as an order made by such Court or Judge in a cause depending in such Court or before such Judge.

Certificate of ambassador, &c., sufficient evidence in support of application.

II. A certificate under the hand of the ambassador, minister, or other diplomatic agent of any foreign power, received as such by Her Majesty, or in case there be no such diplomatic agent, then of the Consul General or consul of any such foreign power at London, received and admitted as such by Her Majesty, that any matter in relation to which an application is made under this Act is a civil or commercial matter pending before a Court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such Court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified; but where no such certificate is produced other evidence to that effect shall be admissible.

Examination of witnesses to be taken upon oath.

III. It shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized; and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

Persons giving false evidence guilty of perjury.

Payment of expenses.

IV. Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

Persons to have right of refusal to answer questions and to produce documents.

V. Provided also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the Court by which or by a Judge whereof or before the Judge by whom the order for examination was made would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain Courts and Judges to have authority under this Act.

VI. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any Judge of any such Court, and every Judge in any such colony or possession who by any order of Her Majesty in Council may be appointed for this purpose, shall respectively be Courts and Judges having authority under this Act: Provided, that the Lord Chancellor, with the assistance of two of the Judges of the Courts of Common Law at *Westminster*, shall frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

Lord Chancellor, &c., to frame rules, &c.

20 & 21 VICTORIÆ, CAP. XXXIX.

An Act *to regulate the admission of Attornies and Solicitors of Colonial Courts in Her Majesty's Superior Courts of Law and Equity in England, in certain cases.*

[17*th August* 1857.]

Preamble.

Whereas in certain of Her Majesty's colonies and dependencies, including certain parts of the territories under the government of the *East India* Company, the system of jurisprudence is founded on or assimilated to that administered in *England*, and the attornies and solicitors of the Superior Courts of Law and Equity in *England* are admitted as attornies and solicitors in the Courts of Law and Equity of such colonies and dependencies, on production of their certificates of admission in the *English* Courts aforesaid; and it is considered just and expedient to afford facilities to the attornies and solicitors of the Superior Courts in certain colonies and dependencies for obtaining admission in Her Majesty's Courts of Law and Equity in *England*: Be it therefore enacted, &c.

Short title.

I. This Act may for all purposes be cited as "The Colonial Attornies' Relief Act."

When Act to come into operation.

II. This Act shall not take effect in any one or more of Her Majesty's colonies or dependencies until Her Majesty has, by order in council, to be made as hereinafter mentioned, directed the same to come into operation in respect to such colony or dependency.

Attornies and solicitors of colonial Courts to be admitted to Courts of Law and Equity in England.

III. All persons who, being subjects of the *British* Crown, have been or shall hereafter be duly admitted and enrolled as attornies and solicitors in the Superior Courts of Law and Equity in those of Her Majesty's colonies or dependencies where the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in *England*, and where full service under articles of clerkship to an attorney-at-law for the space of five years at the least, and an examination to test the qualification of candidates, are or may be required previous to such admission, save only in the case of persons previously admitted as attornies or solicitors in the Superior Courts of Law or Equity in *England*, such colonies or dependencies to be from time to time specified in and by order in council, as hereinafter provided, shall and may be admitted and enrolled attornies in all or any of the Courts of Queen's Bench, Common Pleas, and Exchequer, and other Courts in *England*, and solicitors in the High Court of Chancery in *England*, subject as hereinafter provided.

No person to be deemed qualified unless he shall pass an examination, and produce a certificate from the Judge of the Court where he was admitted.

IV. No person shall be deemed qualified to be admitted as attorney or solicitor, under the provisions of this Act, unless he shall pass such examination to test his fitness and capacity as hereinafter provided, and shall produce at such examination a certificate from the presiding Judge of the Superior Court of Common Law in the colony or dependency where such person shall have been duly admitted an attorney and solicitor, and stating the amount of the stamps which have been paid by such person on his articles of clerkship and admission to practise in such colony, in the form or to the effect as contained in Schedule (A) hereunto annexed, and shall further make affidavit (in such

manner as shall be provided by order or regulation to be made by the Judges of the Superior Courts of Common Law, and the Master of the Rolls respectively, as hereinafter provided), that he is resident within the jurisdiction of the said Superior Courts of Law and Equity in *England*, and that he has ceased, for the space of twelve calendar months at the least, to practise as attorney or solicitor in any colonial Court of law.

Judges of Courts of Common Law to appoint examiners.

V. It shall be lawful for the Judges of the Courts of Queen's Bench and Common Pleas and Exchequer, or any three or more of them, as and when any person shall, under the provisions of this Act, seek to be admitted as an attorney, and not as a solicitor also, and for the Master of the Rolls, as and when any person shall seek as aforesaid to be admitted as a solicitor, and not as an attorney also, and for the said Judges or any three or more of them, and the Master of the Rolls, jointly, when any person shall seek as aforesaid to be admitted as an attorney and solicitor, and he and they are hereby authorized and required, at any time before he and they shall admit or issue a fiat for the admission of any such person as aforesaid, to examine and inquire by such ways and means as he or they shall think proper touching the qualification and the fitness or capacity of such person to act as an attorney or solicitor, or as an attorney and solicitor, and for that purpose it shall be lawful for him or them, from time to time as application for admission as aforesaid shall be made, to appoint such persons as examiners, and to make such orders and regulations for conducting such examination, as he or they shall think proper; and if by any such examination any of the Judges of the said Courts of Common Law shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as an attorney, then, and not otherwise, any one of the said Judges shall and he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be administered to attornies in *England*, and after such oaths taken to cause him to be admitted an attorney of such Courts, which admission shall be written on parchment, and signed by such Judge, and shall be stamped with the stamps after-mentioned; and if by such examination the Master of the Rolls shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as a solicitor, then, and not otherwise, he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be taken, and to cause him to be admitted a solicitor in the Court of Chancery, and his name to be enrolled as a solicitor of such Court, which admission shall be written on parchment, and signed by the Master of the Rolls, and shall be stamped with the stamps after-mentioned.

Stamp duties on admissions.

VI. The admission of any person as an attorney or solicitor under the provisions of this Act shall be stamped with the stamps by law required to be impressed on the admission of attornies or solicitors in *England* (as the case may be), and the admission first obtained shall be impressed with such further stamp as shall, together with the amount of stamps paid on articles of clerkship and admission in the colony (to be ascertained as hereinafter provided), be equal in amount to the sum by law payable on articles of clerkship in *England*.

Power to Her Majesty, by order in council, to direct this Act to come into operation in any one or more colony or dependency

VII. Her Majesty may from time to time, by order in council, direct this Act to come into operation as to any one or more of Her Majesty's colonies or dependencies, and thereupon, but not otherwise, the provisions of this Act shall apply to persons duly admitted as attornies and solicitors in the Superior Courts of Law and Equity in such colonies or dependencies; but no such order in council shall be made in respect of any colony, except upon application made by the Governor or person exercising the functions of Governor of such colony or dependency, and until it shall be shown to the satisfaction of Her Majesty's Principal Secretary of State for the colonies that the system of jurisprudence as administered in such colony or dependency, and the qualification for admission as an attorney or solicitor in the Superior Courts of Law and Equity in such colony or dependency, answer to and fulfil the conditions specified in Section III hereinbefore contained, and also that the attornies or solicitors of the Superior Courts of Law or Equity in *England* are admitted as attornies and solicitors in the Superior Courts of Law and Equity of such colony or dependency, on production of their certificates of admission in the *English* Courts, without service or examination in the colony or dependency.

SCHEDULE (A).

To all whom it may concern, I [*name and style of Judge*] do hereby certify, that [*terms of certificate of admission granted to the attorney in the colony*], and that the said [*attorney's name*] is now duly enrolled as an attorney-at-law and solicitor in this colony, and entitled to practise as such; and further, that no charge or accusation has been established or is pending against the said [ ] in such his professional character or otherwise affecting his fair fame and repute. And I find that the sum of £ was paid on articles of clerkship when the said was articled, and the sum of £ on the certificate of admission when he was admitted to practise as aforesaid. [*To be signed and attested in the manner usual in other certificates granted by the Judge*]

20 & 21 VICTORIÆ, CAP. LXVI.

An Act *for punishing mutiny and desertion of Officers and Soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of Officers and Soldiers dying in the service.*

[25*th August* 1857.]

[Repealed by 26 & 27 Vic., cap. 48, sec. 1]

20 & 21 VICTORIÆ, CAP. LXXV.

An Act *to confirm an Order in Council concerning the exercise of jurisdiction in matters arising within the Kingdom of Siam.*

[25*th August* 1857.]

Preamble.

6 & 7 Vic., c. 94.

Whereas by an Act passed in the Session holden in the sixth and seventh years of Her Majesty, Chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions,

and to render the same more effectual," it was enacted that it should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory: And whereas, to make provision for the due exercise of the jurisdiction possessed by Her Majesty in the dominions of the Kings of *Siam*, Her Majesty, by an order in council, dated the twenty-eighth day of *July* one thousand eight hundred and fifty-six, and expressed to be made in pursuance of the above-recited Act, vested certain powers and authorities in Her Majesty's Consul appointed to reside in the kingdom of *Siam* for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Kings of *Siam*, and particularly authority to hear and determine any suits of a civil nature arising in those dominions between a *British* subject and a subject of the Kings of *Siam* or a subject or citizen of a foreign State in amity with Her Majesty, or between *British* subjects, subject to an appeal, expressed to be given by the said order, to the Supreme Court in Her Majesty's possession of *Singapore*, and also authority to try *British* subjects charged with having committed crimes or offences within the dominions of the Kings of *Siam*, and power also to cause any *British* subject charged with the commission of any crime or offence, the cognizance whereof might appertain to such Consul, to be sent to Her Majesty's possession of *Singapore* for trial before the Supreme Court of the said possession; and in the said order in council are contained provisions in relation to the trial by the said Supreme Court of the *British* subjects so sent for trial, and also for the exercise by the said Supreme Court, concurrently with Her Majesty's Consul in *Siam*, of authority and jurisdiction in regard to all suits of a civil nature between *British* subjects arising within the dominions of the Kings of *Siam*: And whereas doubts have arisen whether all the jurisdiction intended to be vested by the said order in council in the Supreme Court of *Singapore* can be effectually vested in the said Court without the authority of Parliament, and it is expedient that the said order should be confirmed as hereinafter mentioned: Be it enacted &c.

Order in council, dated 28th July 1856.

Order in council confirmed

I. The said order in council is hereby confirmed, and shall have the same force and effect as if every article and provision therein had been enacted by the authority of Parliament: Provided always, that it shall and may be lawful for Her Majesty, by order in council, at any time hereafter to amend, alter, or vary the said order in council, and from time to time by any fresh order or orders in council to make such other rules and regulations touching the administration of justice by the said Supreme Court at *Singapore*, under the said recited order, as to Her Majesty in Council shall seem right.

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21 VICTORIÆ, CAP. III.

AN ACT *for enabling the East India Company to raise money in the United Kingdom for the service of the Government of India.*

[22*nd March* 1858.]

(1) [Power to East India Company to raise any sum not exceeding eight millions.]

(2) [Money may be raised on bonds of the Company.]

(3) [When money not borrowed on bond debentures may be issued by the Company.]

(4) [As to payment of principal and interest on debentures.]

(5) [Debentures transferable by delivery.]

(6) [The whole amount secured by bonds, &c. not to exceed eight millions.]

(7) [Power to raise money for re-payment of principal monies.]

(8) [Securities to be charged on revenues of India.]

(9) [Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.]

(10) [Forgery of debentures to be punishable as forgery of East Indian bonds.]

(11) [Returns to be annually prepared of monies raised on loan, &c. and presented to Parliament.]

(12) [Existing powers of the Company not prejudiced.]

21 & 22 VICTORIÆ, CAP. XXXII.

An Act *to make valid certain acts of the late Chief Justice of Bombay.*

[12*th July* 1858.]

(1) [Acts of Sir W. Yardley as Chief Justice up to 9th April 1858 confirmed.]

21 & 22 VICTORIÆ, CAP. LV.

An Act *to revive and continue an act amending the Act for limiting the time of service in the Army.*

[23*rd July* 1858.]

Preamble. 18 & 19 Vic. c. 4.

Whereas by an Act of the Session holden in the eighteenth and nineteenth years of Her Majesty, Chapter four, "to amend the Act for limiting the time of service in the Army," it was enacted that for three years after the passing of the Act now in recital any person might be enlisted to serve Her Majesty or in the forces of the *East India* Company as a soldier for any such term not exceeding ten years in the Infantry or twelve years in the Cavalry or Artillery or other Ordnance Corps as might be authorized by any order or orders of Her Majesty in Council in that behalf: And whereas it is expedient to revive and continue the said Act: Be it enacted &c.

Act revived and continued.

I. The said Act of the eighteenth and nineteenth years of Her Majesty shall continue in force as if six years after the passing of the said Act had been mentioned therein instead of three years, and shall be deemed and taken to have had effect accordingly, to all intents and purposes, as if this Act had actually passed before the expiration of the said term of three years.

21 & 22 VICTORIÆ, CAP. CVI.

An Act *for the better Government of India.*

[*2nd August* 1858].

Preamble. 16 & 17 Vic., c. 95.

Whereas by an Act of the Session holden in the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, "to provide for the Government of *India*," the territories in the possession and under the government of the *East India* Company were continued under such government, in trust for Her Majesty, until Parliament should otherwise provide, subject to the provisions of that Act and of other Acts of Parliament, and the property and rights in the said Act referred to are held by the said Company in trust for Her Majesty for the purposes of the said government: And whereas it is expedient that the said territories should be governed by and in the name of Her Majesty: Be it therefore enacted &c.

Transfer of the Government of India to Her Majesty.

Territories under the government of the East India Company to be vested in Her Majesty, and powers to be exercised in Her name.

I. The government of the territories now in the possession or under the government of the *East India* Company, and all powers in relation to government vested in or exercised by the said Company in trust for Her Majesty, shall cease to be vested in or exercised by the said Company, and all territories in the possession or under the government of the said Company, and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Majesty, and be exercised in Her name; and for the purposes of this Act *India* shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid.

India to be governed by and in the name of Her Majesty.

II. *India* shall be governed by and in the name of Her Majesty, and all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the Government of *India*; and all the territorial and other revenues of or arising in *India*, and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed, shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the Government of *India* alone, subject to the provisions of this Act.

Secretary of State to exercise powers now exercised by the Company or Board of Control.

III. Save as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the government or revenues of *India*, and all such or the like powers over all officers appointed or continued under this Act, as might or should have been exercised or performed by the *East India* Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the affairs of *India* in relation to such government or revenues, and the officers and servants of the said Company respectively, and also all such powers as might

have been exercised by the said Commissioners alone; and any warrant or writing under Her Majesty's Royal sign manual, which by the Act of the Session holden in the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, or otherwise, is required to be countersigned by the President of the Commissioners for the affairs of *India*, shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State.

As to warrants, &c., required to be countersigned by 17 & 18 Vic., c. 77.

IV. After the commencement of this Act any four of Her Majesty's Principal Secretaries of State for the time being, and any four of the Under Secretaries for the time being to Her Majesty's Principal Secretaries of State, may sit and vote as members of the House of Commons, but not more than four such Principal Secretaries and not more than four such Under Secretaries shall sit as members of the House of Commons at the same time.

Four Principal and four Under Secretaries of State may sit as members in the House of Commons.

V. In case the person who immediately before the commencement of this Act is the President of the Commissioners for the affairs of *India* be appointed, upon or within one month after the commencement of this Act, one of Her Majesty's Principal Secretaries of State, and be at the time of such appointment a member of the House of Commons, he shall not by reason of such appointment vacate his seat in Parliament.

If President of Board of Control is appointed Secretary of State, his seat in the House of Commons not to be vacated.

VI. In case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of *India* to such Principal Secretary of State and to his Under Secretaries respectively the like yearly salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively.

Salaries of one Secretary of State and his Under Secretaries to be paid out of the revenue of India.

Council of India.

VII. For the purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of *India*; and henceforth the Council in *India*, now bearing that name, shall be styled the Council of the Governor General of *India*.

Council of India established.

VIII. Within fourteen days after the passing of this Act the Court of Directors of the *East India* Company shall, from among the persons then being Directors of the said Company or having been theretofore such Directors, elect seven persons to be with the persons to be appointed by Her Majesty as hereinafter mentioned the first members of the Council under this Act, and the names of the persons so elected by the Court of Directors shall be forthwith, after such election, certified to the Board of Commissioners for the affairs of *India*, under the seal of the said Company, and it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, within thirty days after the passing of this Act, to appoint to be members of such Council eight persons: Provided always, that if the Court of Directors of the *East India* Company shall refuse or shall for such fourteen days neglect to make such election of such seven persons, and to certify the names of such persons as aforesaid, it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, within thirty days after the expiration of such fourteen days, to appoint from among the said Directors seven persons to make up the full number of the said Council: Provided also, that if any person being or having been such Director, and elected or appoint-

First members of the Council.

ed as aforesaid, shall refuse to accept the office, it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, to appoint in the place of every person so refusing some other person to be a member of the Council, but so that nine members of the Council at the least shall be persons qualified as hereinafter mentioned.

Vacancies in the Council how to be filled up.

IX. Every vacancy happening from time to time among the members of the Council appointed by Her Majesty, not being members so appointed by reason of the refusal or neglect of the Court of Directors or the refusal to accept office hereinbefore mentioned, shall be filled up by Her Majesty, by warrant under Her Royal sign manual, and every other vacancy shall be filled up by the Council by election made at a meeting to be held for that purpose.

The major part of the Council, with certain exceptions, to be persons who shall have served or resided ten years in India.

X. The major part of the persons to be elected by the Court of Directors, and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be members of the Council, shall be persons who shall have served or resided in *India* for ten years at the least, and (excepting in the case of late and present Directors and officers on the Home establishment of the *East India* Company who shall have so served or resided) shall not have last left *India* more than ten years next preceding the date of their appointment; and no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing members of the Council be persons qualified as aforesaid.

Tenure of office of members of the Council.

XI. Every member of the Council appointed or elected under this Act shall hold his office during good behaviour; provided that it shall be lawful for Her Majesty to remove any such member from his office upon an address of both Houses of Parliament.

Members of Council not to sit in Parliament.

XII. No member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament.

Salaries of members of Council.

XIII. There shall be paid to each member of the Council the yearly salary of one thousand two hundred pounds, out of the revenues of *India*.

As to retiring pensions, &c.

XIV. Any member of the Council may, by writing under his hand, which shall be recorded in the minutes of the Council, resign his office, and it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, countersigned by the Chancellor of the Exchequer, to grant to any person who, having held the office of member of the Council for the period of ten years or upwards, shall so resign by reason of infirmity disabling him from a due execution of the duties of the office, a retiring pension during life of five hundred pounds: Provided, that if at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and conditions under which the same is held.

Secretaries and officers on the Home establishment of Company to form the establishment of the Secretary of State in Council.

XV. The Secretaries and other officers and servants on the Home establishment of the said Company, and on the establishment of the Commissioners for the affairs of *India*, immediately before the commencement of this Act, shall on such commencement be and form the establishment of the Secretary of State in Council; and the Secretary of State shall with all convenient speed make such arrangement of the said establishments, and such reductions therein, as may seem to him consistent with the due conduct of the public business, and shall within six months after the commencement of this Act submit a scheme for the permanent establishment to Her Majesty in Council; and it shall be lawful for Her Majesty, by the advice of Her Privy Council, upon consideration of such scheme, to fix and declare what shall constitute and be the establishment of the Secretary of State in Council, and what salaries shall be paid to the persons on the establishment, and the order of Her Majesty in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, provided Parliament be then sitting, or otherwise within fourteen days after the next meeting thereof; and after such establishment has been formed by such order in council no addition of persons shall be made to such establishment, nor any addition made to the salaries authorized by such order, except by a similar order in council, to be laid in like manner before both Houses of Parliament.

Secretary of State to submit a scheme for a permanent establishment.

As to removal of officers and supply of vacancies after first formation of establishment.

XVI. After the first formation of the establishment, it shall be lawful for the Secretary of State in Council to remove any officer or servant belonging thereto, and also to make all appointments and promotions to and in such establishment; provided that the order of Her Majesty in Council of the twenty-first day of *May* one thousand eight hundred and fifty-five, or such other regulations as may be from time to time established by Her Majesty for examinations, certificates, probation, or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

Compensations to officers on Home establishment of the Company and of Board of Control not retained on new establishment.

XVII. It shall be lawful for Her Majesty, by warrant under Her Royal sign manual, countersigned by the Chancellor of the Exchequer, to grant to any secretary, officer, or servant on the Home establishment of the said Company, or on the establishment of the said Commissioners, who in consequence of such reduction as aforesaid by the Secretary of State or under such order in council is not retained on the establishment of the Secretary of State in Council, any compensation, either by way of a gross or annual payment, as, having regard to the circumstances, may seem just.

As to superannuation to officers.

XVIII. It shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any such secretary, officer, or servant as aforesaid, retained on such last-mentioned establishment, such compensation, superannuation, or retiring allowance on his ceasing to hold office as might have been granted to him if this Act had not been passed, and the transfer of any person to the service of the Secretary of State in Council shall be deemed to be a continuance of his previous appointment or employment, and shall not prejudice any claims which he might have had in respect of length of service if his service under the said Company or Commissioners had continued; and it shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to

any secretary, officer, or servant appointed on the said establishment after the first formation thereof such compensation, superannuation, or retiring allowance as, under the Act of the Session holden in the fourth and fifth years of King *William* the Fourth, Chapter twenty-four, or any other Act for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service, may be granted to persons appointed on the establishment of one of Her Majesty's Principal Secretaries of State.

Duties and Procedure of the Council.

Duties of the Council.

XIX. The Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the Government of *India* and the correspondence with *India*, but every order or communication sent to *India* shall be signed by one of the Principal Secretaries of State; and, save as expressly provided by this Act, every order in the United Kingdom in relation to the Government of *India* under this Act shall be signed by such Secretary of State; and all despatches from Governments and Presidencies in *India*, and other despatches from *India*, which if this Act had not been passed should have been addressed to the Court of Directors or to their Secret Committee, shall be addressed to such Secretary of State.

Secretary of State to divide the Council into committees, and to regulate the transaction of business.

XX. It shall be lawful for the Secretary of State to divide the Council into committees for the more convenient transaction of business, and from time to time to re-arrange such committees, and to direct what departments of the business in relation to the Government of *India* under this Act shall be under such committees respectively, and generally to direct the manner in which all such business shall be transacted.

President and Vice-President.

XXI. The Secretary of State shall be the President of the Council, with power to vote, and it shall be lawful for such Secretary of State in Council to appoint from time to time any member of such Council to be Vice-President thereof, and any such Vice-President may at any time be removed by the Secretary of State.

Meetings of the Council.

XXII. All powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present, and at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside, and in the absence of the Secretary of State and Vice-President, one of the members of the Council present shall be chosen by the members present to preside at the meeting; and such Council may act notwithstanding any vacancy therein: Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct; provided that one such meeting at least be held in every week.

Procedure at meetings.

XXIII. At any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a member of Council, or other than any question with regard to which a majority of the votes at a meeting is hereinafter declared to be necessary, the

determination of the Secretary of State shall be final; and in case of an equality of votes at any meeting of the Council, the Secretary of State, if present, and in his absence the Vice-President, or presiding member, shall have a casting vote; and all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a member of the Council, shall require the sanction or approval in writing of the Secretary of State; and in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion, and the reasons for the same, be entered in the minutes of the proceedings, and any member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner.

Orders, &c. to be open to the perusal of members of Council, who may record their opinions.

XXIV. Every order or communication proposed to be sent to *India*, and every order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a meeting of the Council, be placed in the Council room for the perusal of all members of the Council during seven days before the sending or making thereof, except in the cases hereinafter provided; and it shall be lawful for any member of the Council to record in a minute book, to be kept for that purpose, his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

Secretary of State acting against opinions of the majority to record his reasons.

XXV. If a majority of the Council record as aforesaid their opinions against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto.

Provision for cases of urgency.

XXVI. Provided, that where it appears to the Secretary of State that the despatch of any communication, or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every member of the Council, except in the cases hereinafter mentioned.

Orders now sent through Secret Committee may be sent by Secretary of State without communication with the Council.

XXVII. Provided also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the affairs of *India* through the Secret Committee of the Court of Directors to Governments or Presidencies in *India*, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in *India*, by the Secretary of State, without having been submitted to a meeting or deposited for the perusal of the members of the Council, and without the reasons being recorded or notice thereof given as aforesaid.

As to communication of secret despatches from India.

XXVIII. Any despatches to *Great Britain* which might if this Act had not been passed have been addressed to the Secret Committee of the Court of Directors, may be marked

"Secret" by the authorities sending the same, and such despatches shall not be communicated to the members of the Council, unless the Secretary of State shall so think fit and direct.

Appointments and Patronage.

Appointments to be made by or with the approbation of Her Majesty.

XXIX. The appointments of Governor General of *India*, fourth ordinary member of the Council of the Governor General of *India*, and Governors of Presidencies in *India*, now made by the Court of Directors with the approbation of Her Majesty, and the appointments of Advocate General for the several Presidencies now made with the approbation of the Commissioners for the affairs of *India*, shall be made by Her Majesty by warrant under Her royal sign manual; the appointments of the ordinary members of the Council of the Governor General of *India*, except the fourth ordinary member, and the appointments of the members of Council of the several Presidencies, shall be made by the Secretary of State in Council; the appointments of the Lieutenant Governors of provinces or territories shall be made by the Governor General of *India*, subject to the approbation of Her Majesty; and all such appointments shall be subject to the qualifications now by law affecting such offices respectively.

Appointments now made in India to continue to be made there.

XXX. All appointments to offices, commands, and employments in *India*, and all promotions, which by law, or under any regulations, usage, or custom, are now made by any authority in *India*, shall continue to be made in *India* by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively; but the Secretary of State in Council shall have the like power to make regulations for the division and distribution of patronage and power of nomination among the several authorities in *India*, and the like power of restoring to their stations, offices, or employments, officers and servants suspended or removed by any authority in *India* as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the affairs of *India*, if this Act had not been passed.

Certain Sections of 16 & 17 Vic., c. 95, as to appointment, &c. to the Civil service repealed.

XXXI. Sections thirty-seven, thirty-eight, thirty-nine, forty, forty-one, and forty-two of the Act of the sixteenth and seventeenth *Victoria*, Chapter ninety-five, are hereby repealed, so far as the same apply to or provide for the admission or appointment of persons to the Civil service of the *East India* Company.

Secretary of State in Council to make regulations for the admission of candidates to the Civil service of India.

XXXII. With all convenient speed after the passing of this Act, regulations shall be made by the Secretary of State in Council, with the advice and assistance of the Commissioners for the time being acting in execution of Her Majesty's order in council of twenty-first *May* one thousand eight hundred and fifty-five, "for regulating the admission of persons to the Civil service of the Crown," for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf), who may be desirous of becoming candidates for appointment to the Civil service of *India* to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations under the superintendence of the said last-mentioned Commissioners, or of the persons for the time being entrusted with the carrying out of such

regulations as may be from time to time established by Her Majesty for examination, certificate, or other test of fitness in relation to appointments to junior situations in the Civil service of the Crown, and the candidates who may be certified by the said Commissioners or other persons as aforesaid to be entitled under such regulations shall be recommended for appointment according to the order of their proficiency as shown by such examinations, and such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil service of *India* by the Secretary of State in Council: Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Regulations made by Secretary of State to be laid before Parliament.

XXXIII. All appointments to cadetships, naval and military, and all admissions to service not herein otherwise expressly provided for, shall be vested in Her Majesty; and the names of persons to be from time to time recommended for such cadetships and service shall be submitted to Her Majesty by the Secretary of State.

Other appointments and admissions to service vested in Her Majesty.

XXXIV. With all convenient speed after the commencement of this Act, regulations shall be made for admitting any persons being natural-born subjects of Her Majesty (and of such age and qualifications as may be prescribed in this behalf) who may be desirous of becoming candidates for cadetships in the Engineers and in the Artillery, to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations.

Regulations to be made for admitting persons to be examined for cadetships in Engineers and Artillery.

XXXV. Not less than one-tenth of the whole number of persons to be recommended in any year for military cadetships (other than cadetships in the Engineers and Artillery) shall be selected according to such regulations as the Secretary of State in Council may from time to time make in this behalf from among the sons of persons who have served in *India* in the military or civil services of Her Majesty, or of the *East India* Company.

Not less than one-tenth of persons recommended for military cadetships to be selected from sons of persons who have served in India.

XXXVI. Except as aforesaid, all persons to be recommended for military cadetships shall be nominated by the Secretary of State and members of Council, so that out of seventeen nominations the Secretary of State shall have two and each member of Council shall have one; but no person so nominated shall be recommended unless the nomination be approved of by the Secretary of State in Council.

Nominations for cadetships to be made by Secretary of State and members of Council.

XXXVII. Save as hereinbefore provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the affairs of *India*, may be exercised by the Secretary of State in Council, and all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid.

Regulations as to appointments and admissions to service.

As to removal of officers by Her Majesty.

XXXVIII. Any writing under the royal sign manual, removing or dismissing any person holding any office, employment, or commission, civil or military, in *India*, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy chairman of the Court of Directors, shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council.

Transfer of property.

Real and personal property of the Company to vest in Her Majesty for the purposes of the Government of India.

XXXIX. All lands and hereditaments, monies, stores, goods, chattels, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments which the said Company shall be seized or possessed of, or entitled to at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of *India*.

Powers of sale and purchase, and to enter into contracts, vested in Secretary of State in Council.

XL. The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interests therein, stores, goods, chattels, and other property, and to enter into any contracts whatsoever, as may be thought fit, for the purposes of this Act; and all property so acquired shall vest in Her Majesty for the service of the Government of *India*; and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seals of three members of the Council.

Revenues.

Expenditure of revenues of India subject to control of Secretary of State in Council.

XLI. The expenditure of the revenues of *India*, both in *India* and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council.

Dividend on the stock of the Company, and existing and future debts, liabilities, and expenses, to be charged on revenues of India.

XLII. The dividend on the capital stock of the said Company secured by the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, until the redemption thereof, and all the bond, debenture, and other debt of the said Company in *Great Britain*, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges, and expenses, which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company out of the revenues of *India*, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing, and all

expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of *India*, and all payments under this Act, shall be charged and chargeable upon the revenues of *India* alone, as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company, and such revenues shall not be applied to any other purpose whatsoever; and all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues: Provided always, that nothing herein contained shall lessen or prejudicially affect any security to which the said Company, or any proprietor or creditor thereof, now is or may be entitled upon the fund called "The Security Fund of the *India* Company," and mentioned in the Act of the third and fourth years of His late Majesty King *William* the Fourth, Chapter eighty-five, Section fourteen.

Revenues remitted to Great Britain, and monies arising in Great Britain, to be paid to Secretary of State in Council.

XLIII. Such part of the revenues of *India* as shall be from time to time remitted to *Great Britain*, and all monies of the said Company in their treasury or under the care of their cashier, and all other monies in *Great Britain* of the said Company, or which would have been received by them in *Great Britain* if this Act had not been passed, and all monies arising or accruing in *Great Britain* from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act; and all such monies, except as hereinafter otherwise provided, shall be paid into the Bank of *England*, to the credit of an account to be opened by the Governor and Company of the Bank of *England*, to be intituled "The account of the Secretary of State in Council of *India*;" and all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and such account shall be a public account: Provided always, that the Secretary of State in Council may cause to be kept, from time to time, under the care of their cashier, in an account to be kept at the Bank of *England*, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company.

Cash balance of the Company at the Bank to be transferred to Secretary of State in Council.

XLIV. Such amount of money as at the time of the commencement of this Act may be standing to the credit of the *East India* Company at the Bank of *England* shall be transferred by the Governor and Company of the Bank of *England* to the credit of the account to be opened in the name of the Secretary of State in Council as aforesaid.

Stock account to be opened at the Bank.

XLV. There shall be raised in the books of the Governor and Company of the Bank of *England* such accounts as may be necessary in respect of any stock or stocks of Government annuities, and all such accounts respectively shall be intituled "The stock account of the Secretary of State in Council of *India*," and every such account shall be a public account.

Stock standing in the name of the Company transferred.

XLVI. Such Government stock or stocks as at the time of the commencement of this Act may be standing in the name of the *East India* Company in the books of the said Governor and Company shall be transferred by the chief cashier or the chief accountant of the said Governor and Company to the proper account or accounts to be raised as aforesaid.

Power to grant letter of attorney for sale, &c. of stock and receipt of dividends.

XLVII. The Secretary of State in Council, by letter of attorney, executed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, may authorize all or any of the cashiers of the Bank of *England* to sell and transfer all or any part of the stock or stocks standing or that may thereafter stand in the books of the said Bank to the several accounts of the Secretary of State in Council, and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing or that may thereafter stand on the said accounts, and by any writing signed by three members of the Council, and countersigned as aforesaid, may direct the application of the monies to be received in respect of such sales and dividends, but no stock shall be purchased or sold and transferred by any of the said cashiers under the authority of such general letter of attorney, except upon an order in writing directed to the said chief cashier and chief accountant from time to time, and duly signed and countersigned as aforesaid.

Provision as to exchequer bills, bonds, and other securities.

XLVIII. All exchequer bills, exchequer bonds, or other Government securities, or other securities, of whatsoever kind, not hereinbefore referred to, which shall be held by the Governor and Company of the Bank of *England* in trust for or on account of the *East India* Company at the time of the commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council; and all such securities as aforesaid, and all such securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the proceeds thereof applied as may be authorized by order in writing signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and directed to the said chief cashier and chief accountant.

Powers of borrowing vested in the Company transferred to Secretary of State in Council.

XLIX. All powers of issuing bonds, debentures, and other securities for money in *Great Britain*, which, if this Act had not been passed, might have been exercised by the said Company, or the Court of Directors, under the direction and control of the Commissioners for the affairs of *India*, or otherwise, shall and may be exercised by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting; and such securities as might have been issued under the seal of the said Company shall be issued under the hands of three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries.

Provisions in force relating to forgery to extend to bonds, &c. issued by Secretary of State in Council.

L. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any bond, debenture, or security issued by the Secretary of State in Council of *India* under the authority of this Act.

Present system of issuing warrants for payments to be continued.

LI. The regulations and practice now acted on by the Court of Directors on the issue of warrants or authorities for the payment of money shall be maintained and acted on by the Secretary of State in Council of *India* under this Act until the same be altered by the authority of Her Majesty in Council: Provided, that where a warrant or authority for the payment of money passes through the audit department at the *East India House* before payment, it shall be countersigned by such officer or officers of that audit department as the Secretary of State in Council may direct, before payment shall be made; and that warrants or authorities which have heretofore been signed by two Directors of the *East India* Company shall, after the commencement of this Act, be signed by three members of the Council of *India*.

As to the audit of accounts in Great Britain.

LII. It shall be lawful for Her Majesty, by warrant under Her royal sign manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be auditor of the accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such warrant; and every such auditor shall hold office during good behaviour; and there shall be paid to such auditor and assistants out of the revenues of *India* such respective salaries as Her Majesty, by warrant as aforesaid countersigned as aforesaid, may direct; and such auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in *Great Britain* of all monies, stores, and property applicable for the purposes of this Act; and the Secretary of State in Council shall by the officers and servants of the establishment produce and lay before such auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto; and such auditor shall have power to examine all such officers and servants in *Great Britain* of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such monies, stores, and property, and for that purpose, by writing under his hand, to summon before him any such officer or servant; and such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case, if such there shall be, in which it shall appear to him that any money arising out of the revenues of *India* has been appropriated to other purposes than those of the Government of *India* to which alone they are declared to be applicable; and shall specify in detail in his reports all sums of money, stores, and property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities which may appear in such accounts, or in the authorities, vouchers, or documents having relation thereto; and all such reports shall be laid before both Houses of Parliament by such auditor, together with the accounts of the year to which the same may relate.

Accounts to be annually laid before Parliament.

LIII. The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting next after the first day of *May* in every year, lay before both Houses of Parliament an account for the financial year preceding that last completed

of the annual produce of the revenues of *India*, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of *India*, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of *India*, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in *England* or elsewhere, applicable to the purposes of the Government of *India*, according to the latest advices which have been received thereof, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof; and if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within any year, the particulars thereof shall be specially stated and explained at the foot of the account of such year; and such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in *India* in such form as shall best exhibit the moral and material progress and condition of *India* in each such Presidency.

When order to commence hostilities is sent to India, the fact to be communicated to Parliament.

LIV. When any order is sent to *India* directing the actual commencement of hostilities by Her Majesty's forces in *India*, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and if Parliament be not sitting at the end of such three months then within one month after the next meeting of Parliament.

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers.

LV. Except for preventing or repelling actual invasion of Her Majesty's *Indian* possessions, or under other sudden and urgent necessity, the revenues of *India* shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's forces charged upon such revenues.

Existing Establishments.

Indian military and naval forces to remain under existing conditions of service.

LVI. The military and naval forces of the *East India* Company shall be deemed to be the *Indian* military and naval forces of Her Majesty, and shall be under the same obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial limits only, for the same terms only, and be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company: such forces, and all persons hereafter enlisting in or entering the same, shall continue and be subject to all Acts of Parliament, laws of the Governor General of *India* in Council, and Articles of War, and all other laws, regulations, and provisions relating to the *East India* Company's military and naval forces respectively, as if Her Majesty's *Indian* military and naval forces respectively had throughout such Acts, laws, articles, regulations, and provisions been mentioned or referred to, instead of

such forces of the said Company; and the pay and expenses of and incident to Her Majesty's *Indian* military and naval forces shall be defrayed out of the revenues of *India*.

Provision for persons hereafter entering Her Majesty's Indian forces.

LVII. Provided, that it shall be lawful for Her Majesty from time to time by order in Council to alter or regulate the terms and conditions of service under which persons hereafter entering Her Majesty's *Indian* forces shall be commissioned, enlisted, or entered to serve, and the forms of attestation and of the oath or declaration to be used and taken or made respectively on attesting persons to serve in Her Majesty's *Indian* forces shall be such as Her Majesty with regard to the *European* forces, and the Governor General of *India* in Council with regard to the Native forces, shall from time to time direct: Provided, that every such order in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Officers, &c., in employ of the Company at the commencement of this Act to be deemed to hold offices under Her Majesty.

LVIII. All persons who at the time of the commencement of this Act shall hold any offices, employments, or commissions whatever under the said Company in *India*, shall thenceforth be deemed to hold such offices, employments, and commissions under Her Majesty as if they had been appointed under this Act, and shall be paid out of the revenues of *India*; and the transfer of any person to the service of Her Majesty shall be deemed to be a continuance of his previous service, and shall not prejudice any claims to pension, or any claims on the various annuity funds of the several Presidencies in *India*, which he might have had if this Act had not been passed.

All orders of the Court of Directors or Board of Control given before commencement of this Act to remain in force.

LIX. All orders, regulations, and directions lawfully given or made before the commencement of this Act by the Court of Directors or by the Commissioners for the affairs of *India* shall remain in force; but the same shall, from and after the commencement of this Act, be deemed to be the orders, regulations, and directions under this Act, and take effect and be construed and be subject to alteration or revocation accordingly.

Cesser of appointments and functions of Directors, &c.

LX. All functions and powers of Courts of proprietors and Courts of Directors of the said Company in relation to the Government of *India*, and all appointments of such of the Directors of the said Company as have been appointed by Her Majesty, shall cease, and the yearly sums payable to the chairman, deputy chairman, and other directors of the said Company shall cease to be payable, and all powers vested in Her Majesty of appointing directors of the said Company shall cease and determine.

Board of Control abolished.

LXI. The appointments and powers of appointment of Commissioners for the affairs of *India* shall cease and determine.

Records, &c., of the Company to be delivered into the care of Secretary of State in Council.

LXII. All books, records, and archives of the said Company, except such books and documents as concern the ownership of shares in the capital stock of the said Company, and the payments to the proprietors of such capital stock of their respective shares of the dividend thereon, shall be delivered into the care and custody of the Secretary of State in Council as they may direct.

A person succeeding to the office of Governor General may exercise his powers before he takes his seat in Council.

LXIII. In case the person who shall be entitled under any provisional appointment to succeed to the office of Governor General of *India* upon a vacancy therein, or who shall be appointed absolutely to assume that office, shall be in *India* (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment, as the case may require), but shall be absent from *Fort William* in *Bengal*, or from the place where the Council of the Governor General of *India* may then be, and it shall appear to him necessary to exercise the powers of Governor General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General, and after such proclamation, and thenceforth until he shall repair to *Fort William* or the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor General; and when the office of Governor General is assumed under the foregoing provision, if there be at any time before the Governor General takes his seat in Council, no Vice-President of the Council authorised to preside at meetings for making laws and regulations (as provided by Section twenty-two of the Act of the sixteenth and seventeenth years of Her Majesty), the senior ordinary member of Council then present shall preside therein, with the same powers as if a Vice-President had been appointed and were absent.

Continuance of existing enactments.

Existing provisions to be applicable to Secretary of State in Council, &c.

LXIV. All Acts and provisions now in force under charter or otherwise concerning *India* shall, subject to the provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof, and all enactments applicable to the officers and servants of the said Company in *India*, and to appointments to office or admissions to service by the said Court of Directors, shall, subject to the provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in *India*, and to appointments to office and admissions to service under the authority of this Act.

Actions and Contracts.

Secretary of State in Council may sue and be sued.

LXV. The Secretary of State in Council shall and may sue and be sued as well in *India* as in *England* by the name of the Secretary of State in Council as a body corporate; and all persons and bodies politic shall and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of *India* as they could have done against the said Company; and the property and effects hereby vested in Her Majesty for the purposes of the Government of *India*, or acquired for the said purposes,

shall be subject and liable to the same judgments and executions as they would while vested in the said Company have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company.

Secretary of State in Council to come in the place of the Company with regard to pending suits, &c.

LXVI. The Secretary of State in Council shall, with respect to all actions, suits, and all proceedings by or against the said Company pending at the time of the commencement of this Act, come in the place of the said Company, and that without the necessity of substituting the name of the Secretary of State in Council for that of the said Company.

Treaties to be binding on Her Majesty, and contracts, &c., of Company may be enforced, &c.

LXVII. All treaties made by the said Company shall be binding on Her Majesty, and all contracts, covenants, liabilities, and engagements of the said Company made, incurred, or entered into before the commencement of this Act may be enforced by and against the Secretary of State in Council in like manner and in the same Courts as they might have been by and against the said Company if this Act had not been passed.

Members of Council not personally liable.

LXVIII. Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract, entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity; but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of *India*.

The Directors elected by general court of Company, alone to be the directors of the Company.

LXIX. After the commencement of this Act such of the directors as have been elected by the general court of the said Company, or who shall from time to time be so elected, shall be the directors of the said Company, and the major part of such directors for the time being shall form a Court of directors; and where the presence, signature, consent, or concurrence of ten directors is now requisite, the presence, signature, consent, or concurrence of the major part of the directors for the time being shall be sufficient; and to the intent that the number of directors may be reduced to six, two directors only shall be elected by the general court of the said Company at each biennial election to fill the vacancies occasioned by the expiration of the term of office of directors; and so much of the said Act of the sixteenth and seventeenth years of Her Majesty as requires any of the directors to be persons who have resided ten years in *India* shall be repealed, and in the oath to be taken by a director of the said Company, under Section thirteen of the said Act, the words "in the administration of the Government of *India* in trust for the Crown" shall be omitted.

Provision as to reduction of number of directors.

Quarterly courts need not be summoned.

LXX. It shall no longer be obligatory on the directors to summon four general quarterly courts in every year as heretofore.

Company not to be liable in respect of any claim arising out of any covenant, &c., made before the passing of this Act.

LXXI. Except claims of mortgagees of the security fund hereinbefore mentioned, the said Company shall not, after the passing of this Act, be liable in respect of any claim, demand, or liability which has arisen or may hereafter arise out of any treaty, covenant, contract, grant, engagement, or fiduciary obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company

would, but for this Act, have been bound to satisfy such claim, demand, or liability out of the revenues of *India*, or in any other manner whatsoever.

Saving of certain rights of the Company.

As to payment of expenses of the Company in respect of their capital stock and dividend.

LXXII. It shall be lawful for the Secretary of State in Council to pay to the said Company out of the revenues of *India* such annual sum as Her Majesty, by warrant under Her royal sign manual, countersigned by the Chancellor of the Exchequer, may direct for defraying the expenses of and incident to the payment to the proprietors of the capital stock of the said Company of their respective shares of the dividend on such stock, and of keeping the books of the said Company for transfers, and otherwise in relation to such stock.

Saving of the rights of the Company in respect of their dividend and security fund.

LXXIII. Nothing herein contained shall affect the preference secured by the said Act of the third and fourth years, of King *William* the Fourth to the dividend on the capital stock of the said Company or the right of the said Company to demand the redemption of the said dividend secured by such Act; and all the provisions of the said Act concerning the security fund thereby created shall remain in force, save that when the approbation of the Commissioners for the affairs of *India* is required in relation to the disposal of the said security fund, the approbation of the Secretary of State in Council shall be required.

Commencement of the Act.

Commencement of Act

LXXIV. Save as herein otherwise provided, this Act shall commence and take effect on the expiration of thirty days after the day of the passing thereof.

Provision as to proceedings in India before the Act is proclaimed there

LXXV. This Act shall be proclaimed in the several Presidencies and Governments of *India* as soon as conveniently may be after such Act has been received by the Governor General of *India*; and until such proclamation be made all acts, matters, and things done, ordered, directed, or authorized in *India* in the name of the *East India* Company, or otherwise in relation to the Government of *India*, shall be as valid and effectual as if this Act had not been passed.

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22 VICTORIÆ, CAP. XI.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[*8th April* 1859.]

Preamble.

WHEREAS, in consequence of the recent disturbances in *India*, it is expedient that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding seven millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April*, one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom for the service of the Government of *India*, any sum or sums of money not exceeding in the whole seven millions as hereinafter provided.

Money may be raised on bonds under the hands of three members of the Council of India, countersigned by Secretary of State, or one Under Secretary.

II. It shall be lawful for the said Secretary of State in Council from time to time to borrow upon bonds to be issued under the hands of three members of the Council of *India*, and countersigned by the Secretary of State for *India*, or one of his Under Secretaries or his Assistant Under Secretary, all or any part of the money hereby authorized to be raised as aforesaid; such bonds to be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

When money not borrowed on bond, debentures may be issued.

III. For raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Secretary of State in Council to issue from time to time debentures under the hands of three members of the said Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the said Secretary of State in Council may think fit; such debentures to be issued at or for such prices and on such terms as may be determined by the said Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be payable half yearly, on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable at the treasury of the said Secretary of State in Council in *London*.

Debentures transferable by delivery or deed.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal moneys secured thereby, and all interest due and accruing thereon, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed.

The whole amount secured by bonds, &c., not to exceed seven millions.

VI. The whole amount of principal moneys to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not exceed seven millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act, as hereinafter provided.

Power to raise money for re payment of principal moneys.

VII. Upon or for the re-payment of the principal money secured under the authority of this Act, or any part of such money, the said Secretary of State in Council may at any time borrow or raise by bonds or debentures as aforesaid all or any part of the amount of principal money repaid or to be repaid, and so from time to time, as all or any part of any principal money for the time being secured under this Act may require to be repaid; but the amount to be secured by new securities shall not in any case exceed the principal money required to be repaid.

Securities to be charged on revenues of India.

VIII. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.

IX. The provisions contained in Section 4 of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

X. All provisions now in force in any wise relating to the offence of forging, or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XI. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also, a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India* at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting; and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XII. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of the passing thereof.

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22 VICTORIÆ, CAP. XX.

An Act *to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's dominions in places out of the jurisdiction of such tribunals.*

[19*th April* 1859.]

Preamble.

Whereas it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, and proceedings pending before tribunals in Her Majesty's dominions in places in such dominions out of the jurisdiction of such tribunals: Be it enacted &c.

Order for examination of witnesses out of the jurisdiction in relation to any suit pending before any tribunal in Her Majesty's possessions.

I. Where upon an application for this purpose it is made to appear to any Court or Judge having authority under this Act that any Court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such Court or tribunal of any witness or witnesses out of the juris-

diction of such Court or tribunal, and within the jurisdiction of such first-mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the examination before the person or persons appointed, and in manner and form directed by such Commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said Court or Judge by the same order, or for such Court or Judge, or any other Judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such Court or Judge in a cause depending in such Court or before such Judge.

Penalty on persons giving false evidence.

II. Every person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

Payment of expenses.

III. Provided always, that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Power to person to refuse to answer questions to criminate himself, or to produce documents.

IV. Provided also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the Court by which, or by a Judge whereof, or before the Judge by whom the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain Courts and Judges to have authority under this Act.

V. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any Judge of any such Court, and every Judge in any such colony or possession who, by any order of Her Majesty in Council, may be appointed for this purpose, shall respectively be Courts and Judges having authority under this Act.

Power to Judges to frame rules, &c., for giving effect to provisions of this Act.

VI. It shall be lawful for the Lord Chancellor of *Great Britain*, with the assistance of two of the Judges of the Courts of Common Law at *Westminster*, so far as relates to *England*, and for the Lord Chancellor of *Ireland*, with the assistance of two of the Judges of the Courts of Common Law at *Dublin*, so far as relates to *Ireland*, and for two of the Judges of the Court of Session, so far as relates to *Scotland*, and for the chief or only Judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad, so

far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

22 & 23 VICTORIÆ, CAP. XII.

An Act to repeal, as regards the colony of Victoria, and to enable other colonial legislatures to repeal, certain provisions of the Imperial Acts of the fifty-fourth year of George the Third, Chapter fifteen, and of the fifth and sixth years of William the Fourth, Chapter sixty-two.

[*8th August* 1859.]

Preamble

Whereas by the first, second, and third Sections of an Act passed in the fifty-fourth year of His late Majesty King *George* the Third, intituled an Act for the more easy recovery of debts in Her Majesty's colonies of *New South Wales*, provision was made for the proof, by affidavit, affirmation, or otherwise, of certain matters requiring to be proved before any Courts of Law or Equity in *New South Wales* or its dependencies, and for the punishment of persons guilty of making such affidavits or affirmations falsely: And whereas by the fifteenth and seventeenth Sections of an Act passed in the Session of Parliament held in the fifth and sixth years of His late Majesty King *William* the Fourth, intituled an Act to repeal an Act of the present Session of Parliament, intituled "an Act for the effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths," provision was made for the proof by solemn declaration or otherwise of certain matters or things requiring to be proved before any Court of Law or Equity in Her Majesty's possessions abroad: And whereas it is expedient that the provisions above recited should be repealed regards the colony of *Victoria*, and that as well the said provisions as the fourth Section of the said first-recited Act of Parliament should be alterable or repealable as regards any of Her Majesty's possessions abroad by the legislature or other legislative authority of such possession: Be it therefore enacted &c.

Certain Sections of recited Acts repealed so far as they apply to the colony of Victoria

I. The first, second, and third Sections of the said first-recited Act of Parliament, and the fifteenth and seventeenth Sections of the said secondly-recited Act of Parliament, shall be and they are hereby repealed so far as they apply to Her Majesty's colony of *Victoria*.

Power to colonial legislatures to repeal, alter, or amend provisions of recited Acts so far as applicable to such possessions

II. It shall be lawful for the legislature or other legislative authority of any of Her Majesty's possessions abroad to which any of the provisions contained in the said first-recited Act, or in the fifteenth or seventeenth Section of the said secondly-recited Act, shall apply, to repeal, alter, or amend all or any of the provisions, so far as applicable to such possession, in like manner and subject to the same conditions as if the same had been originally enacted by such legislature or legislative authority.

22 & 23 VICTORIÆ, CAP. XXVII.

An Act to repeal the thirty-first Section of the Act of the sixteenth and seventeenth years of Victoria, Chapter ninety-five, and to alter the limit of the number of European troops to be maintained for local service in India.

[13*th August* 1859.]

[Repealed in part by 23 & 24 Vic., cap. C.]

Preamble.

Whereas it is expedient to repeal so much of the Section numbered thirty-one of an Act passed in the Session holden in the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, as limits the number of *European* forces of the *East India* Company to be raised and maintained at any one time out of the revenues arising from the territories subject to the Government of the said Company to twenty thousand men, and limits the number of non-commissioned officers and private men which it should be lawful for the said Company to enlist and have in pay and train and discipline under the Act of the thirty-ninth year of King *George* the Third, Chapter one hundred and nine, at any one time, to four thousand: Be it enacted &c.

Limit of European troops of Her Majesty's Indian army.

I. It shall be lawful for the Secretary of State in Council, at any time after the passing of this Act, and from time to time, to give such directions as he may think fit for raising and maintaining out of the revenues arising from the territories of *India* vested in Her Majesty by virtue of an Act passed in the Session holden in the twenty-first and twenty-second years of the reign of Her Majesty, Chapter one hundred and six, such number of *European* forces as he may judge necessary for the *Indian* Army of Her Majesty, so that the number of such forces at any one time do not amount in the whole to more than thirty thousand men, not including the commissioned and non-commissioned officers; and it shall be lawful for Her Majesty to enlist, and have in pay and maintain out of the said revenues in the United Kingdom of *Great Britain* and *Ireland* and the *British* Isles, any number of non-commissioned officers and private men belonging to the said *Indian* Army, not exceeding at any one time six thousand.

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22 & 23 VICTORIÆ, CAP. XXXIX.

An Act *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[13*th August* 1859.]

(1.) [Power to the Secretary of State in Council of India to raise any sum not exceeding five millions.]

(2.) [Bonds may be issued under the hands of two members of the Council, counter signed by Secretary of State or one Under Secretary.]

(3.) [Debentures may be issued.]

(4.) [As to payment of principal and interest on debentures.]

(5.) [Debentures transferable by delivery or deed;
Coupons by delivery.]

(6.) [Capital stock and annuities may be created and issued.]

(7.) [Transfer books of such capital stock and annuities to be kept.]

(8.) [Annuities personal estate.]

(9.) [The whole amount charged on revenue of India not to exceed five millions.]

(10.) [Power to raise money for payment of principal money.]

(11.) [Securities, &c., to be charged on revenues of India.]

(12.) [Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.]

(13.) [Forgery of debentures to be punishable as forgery of East India bonds.

(14.) [Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.]

(15.) [Saving powers of the Secretary of State in Council.]

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22 & 23 VICTORIÆ, CAP. LXIII.

An Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof.

[13*th August* 1859.]

Preamble.

WHEREAS great improvement in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof: Be it therefore enacted &c.

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a Court in any other part thereof.

I. If in any action depending in any Court within Her Majesty's dominions, it shall be the opinion of such Court, that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the Court is situate, it shall be competent to the Court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such Court or a Judge thereof, they shall settle the questions of law arising out of the same on which they desire to have the opinion of another Court, and shall pronounce an order remitting the same, together with the case, to the Court in such other part of Her Majesty's dominions, being one of the Superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it

shall be competent to any of the parties to the action to present a petition to the Court whose opinion is to be obtained, praying such last-mentioned Court to hear parties or their Counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or Counsel; and the Court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their Counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the Court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

Opinion to be authenticated and certified copy given.

II. Upon such opinion being pronounced, a copy thereof, certified by an officer of such Court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

Opinion to be applied by the Court making the remit.

III. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the Court in which the action may be depending, who may have the official charge thereof, together with a notice of motion, setting forth that the party will, on a certain day named in such notice, move the Court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said Court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such Court itself upon a case reserved for opinion of the Court, or upon special verdict of a jury; or the said last-mentioned Court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence as the Court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury.

Her Majesty in Council or House of Lords on appeal may adopt or reject opinion.

IV. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any Court whose judgments are reviewable by Her Majesty in Council or by the House of Lords, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any Court whose judgments are respectively reviewable by them, as the same shall appear to them to be well founded or not in law.

Interpretation of terms.

V. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any Court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in *England*, the Superior Courts of Law at *Westminster*, the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge ordinary of the Court for divorce and matrimonial causes, and the Judge of the Court of probate; in *Scotland*, the High Court of justiciary, and the Court of Session acting by either of its divisions; in *Ireland*, the Superior Courts of law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein.

23 & 24 VICTORIÆ, CAP. V.

AN ACT *to regulate Probate and Administration with respect to certain Indian Government Securities; to repeal certain Stamp Duties; and to extend the operation of the Act of the twenty-second and twenty-third years of Victoria, Chapter Thirty-nine, to Indian Bonds.*

[23*rd March* 1860.]

Preamble.

WHEREAS at various times the Executive Government of *India* has raised moneys for the public service by the issue of Government Promissory Notes and by Government loans severally payable in *India*, and by various public notifications of the said Government, or regulations to be made by the Secretary of State in Council, the owners of such notes have been or may be allowed the privilege of having the current interest thereon made payable in *London* by drafts payable in *India*, and the holders or owners of shares or portions of such loans have been or may be allowed the privilege of having the same registered and made transferable, and the interest thereon made payable in *London*: And whereas upon the death of the holders of notes as to which the said privilege shall have been claimed questions may arise as to the place in which the same are properly to be deemed assets of the deceased owner, and it is for the convenience and advantage of the estates of such persons that the same should be deemed assets in this country and not in *India*: And whereas by an Act passed in the Session holden in the fifth and sixth years of the reign of His late Majesty King *William* the Fourth, Chapter sixty-four, Section five, the transfer of any part of the territorial debt of the *East India* Company in *India* in the books of the said Company in *England*, whether upon a sale thereof or otherwise, was made chargeable with a stamp duty of one pound ten shillings, and it is expedient to repeal so much of the said Act as imposes the said stamp duty: And whereas under the authority of various Acts of Parliament the *East India* Company were empowered to raise money upon bonds to be issued under their common seal, and the said bonds formerly constituted the bond debt of the *East India* Company, and are commonly designated *East India* bonds: And whereas by an Act passed in the Session holden in the twenty-first and twenty-second years of the reign of Her present Majesty, Chapter one hundred and six, Section sixty-seven, all liabilities of the *East India* Company were transferred to the Secretary of State in Council: And whereas by an Act passed in the last Session of Parliament, Chapter thirty-nine, power was given to the Secretary of State in Council to raise money by bonds or debentures or the creation of a capital stock or annuities upon or for the re-payment of any principal money secured under the authority of the said Act or of either of the Acts therein recited: And whereas it is expedient to extend such power of raising money to the re-payment of any of the *East India* bonds aforesaid: Be it therefore enacted &c.

Indian Government Notes on which interest is payable in London, and certain

I. All *Indian* Government Promissory Notes, and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in *London* by drafts payable in *India*, and which at the decease of

the owner thereof shall have been registered in the books of the Secretary of State in Council in *London*, or in the books of the Governor and Company of the Bank of *England*, or shall have been enfaced in *India* for the purpose of being so registered before the decease of the owner thereof, and all *Indian* Government Promissory Notes issued with coupons attached which, under such regulations and conditions as may be determined from time to time by the Secretary of State in Council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and *bona notabilia* of such deceased person in *England*, and probate or letters of administration in *England*, or confirmation granted in *Scotland*, and sealed with the seal of the principal Court of Probate in *England*, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid.

Indian Government Promissory Notes, to be deemed *bona notabilia* in England.

Probate, &c., or confirmation granted in Scotland valid, &c.

II. So much of the fifth Section of the said first-recited Act as enacts that every transfer of any part of the said territorial debt in the books of the *East India* Company in *England*, whether upon a sale thereof or otherwise, shall be chargeable with a stamp-duty of one pound ten shillings and no more, is hereby repealed; and no transfer of any part of the said territorial debt or of *Indian* Government loans registered and transferable in the books of the Secretary of State in Council in *London*, or in the books of the Governor and Company of the Bank of *England*, shall be chargeable with any stamp-duty.

Transfers of territorial debt and of Indian Government loans not chargeable with stamp-duty.

III. Upon or for the re-payment of any principal money secured by the said bonds, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes authorized by the said recited Act passed in the Session holden in the twenty-second and twenty-third years of Her present Majesty, Chapter thirty-nine, all or any part of the principal money so repaid or to be repaid, and so from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money repaid or required to be repaid; and the provisions of the said recited Act with reference to the creation of the capital stock and annuities created under the authority of the said Act, and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said Act, shall be held to be in force and to apply to the creation, issue, payment, and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this Act.

Power to raise money under Act 22 & 23 Vic., c. 39, extended to re-payment of East India bonds.

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23 & 24 VICTORIÆ, CAP. LXXXVII.

AN ACT *to remove doubts as to the authority of the Senior Member of the Council of the Governor General of India in the absence of the President.*

[13*th August* 1860.]

[Repealed by 24 & 25 Vic., cap. 67, sec. 2.]

23 & 24 VICTORIÆ, CAP. LXXXVIII.

AN ACT *to extend certain provisions for Admiralty jurisdiction in the colonies to Her Majesty's territories in India.*

[13*th August* 1860.]

Preamble.
12 & 13 Vic., c. 96.

WHEREAS an Act was passed in the Session holden in the twelfth and thirteenth years of Her Majesty, Chapter ninety-six, "to provide for the prosecution and trial in Her Majesty's colonies of offences committed within the jurisdiction of the Admiralty," and by such Act it was provided, that for the purposes thereof the word "colony" should mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except the United Kingdom and the islands of *Man*, *Guernsey*, *Jersey*, *Alderney*, and *Sark*, and the islands adjacent thereto respectively, and except also all such parts and places as were under the government of the *East India* Company: And whereas it is expedient that the provisions of the said Act should extend to all parts and places heretofore under the government of the *East India* Company in like manner as to other colonial and foreign possessions of Her Majesty: Be it therefore enacted &c.

Provisions of the recited Act to extend to India.

I. So much of the said Act as excepts the parts and places then under the government of the *East India* Company, from the interpretation of the word "colony" shall be repealed, and for the purposes of the said Act the word "colony" therein shall include and apply to every part and place heretofore under the government of the *East India* Company, or which may be under the government of Her Majesty in *India*, and all the provisions of the said Act shall be construed and take effect accordingly.

Provision for persons entitled to be tried by the Supreme Court of a Presidency.

II. Provided always, that where any person within any place in *India* is charged with the commission of any offence in respect of which jurisdiction is given by the said Act, or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in *India*, if at any time before his trial he make it appear to the Court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in *India*, and claim to be tried by such a Supreme Court accordingly, the said Court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the Governor of such place or chief local authority thereof, and such Governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such Governor shall think fit for trial before the Supreme Court of such Presidency, and the said Supreme Court and all public officers and other persons in the Presidency shall have the same jurisdiction and authorities, and proceed in the same manner in relation to the person charged with such offence, as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such Supreme Court.

[Note.—*Here follows the Act above referred to :—*]

12 & 13 Victoriæ, Cap. 96.

An Act to provide for the prosecution and trial in Her Majesty's Colonies of offences committed within the jurisdiction of the Admiralty.

[1*st August* 1849.]

Preamble. 10 & 11 W. 3, c. 7.

Whereas by an Act passed in the eleventh year of the reign of King *William* the Third, intituled an Act for the more effectual suppression of piracy, it is enacted, that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission, in the manner therein directed, and according to the civil law and the method and rules of the Admiralty: And whereas by an Act passed in the forty-sixth year of the reign of King *George* the Third, intituled an Act for the speedy trial of offences committed in distant parts upon the sea, it is enacted, that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be inquired of, tried, heard, determined, and adjudged, according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories under and by virtue of the King's commission or commissions under the great seal of *Great Britain*, to be directed to Commissioners in the manner and with the powers and authorities therein provided: And whereas it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts, and factories of persons charged with the commission of such offences on the sea, or in any such haven, river, creek, or place as aforesaid: Be it therefore enacted &c.

46 G. 3, c. 54.

All persons charged in any colony with offences committed on the sea, may be dealt with in the same manner as if the offences had been committed on waters within the local jurisdiction of the Courts of the colony.

I. That if any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek, or place shall be brought for trial to any colony, then and in every such case all Magistrates, Justices of the Peace, public prosecutors, juries, Judges, Courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to

have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the Courts of criminal justice of such colony.

Persons convicted of such offences shall suffer the like punishments as on conviction of like offences in England.

II. Provided always, and be it enacted, that if any person shall be convicted before any such Court of any such offence, such person so convicted shall be subject and liable to and shall suffer all such and the same pains, penalties, and forfeitures as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were inquired of, tried, heard, determined, and adjudged, in *England*, any law, statute, or usage to the contrary notwithstanding.

Provision for the trial of murder and manslaughter, where the death only happens in the colony or upon the sea.

III. And be it enacted, that where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in such colony in the same manner in all respects as if such offence had been wholly committed in that colony; and that if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

Jurisdiction of the Supreme Courts of New South Wales and Vandiemen's land preserved. 9 G. 4, c. 83.

IV. Provided also, and be it enacted, that nothing in this Act contained shall in any way affect or abridge the jurisdiction of the Supreme Courts of *New South Wales* and *Vandiemen's land*, as established by an Act passed in the ninth year of the reign of King *George* the Fourth, intituled an Act to provide for the administration of justice in *New South Wales* and *Vandiemen's land* and for the more effectual government thereof, and for other purposes relating thereto.

Interpretation of terms.

V. And be it enacted, that for the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom, and the islands of *Man*, *Guernsey*, *Jersey*, *Alderney*, and *Sark*, and the islands adjacent thereto respectively, and except also all such parts and places as are under the government of the *East India* Company; and the word "Governor" shall mean the officer for the time being administering the government of any colony.

Act may be amended, &c.

VI. And be it enacted, that this Act may be amended or repealed by any Act to be passed during this present Session of Parliament.

23 & 24 VICTORIÆ, CAP. C.

An Act *to repeal so much of the Act of the twenty-second and twenty-third Victoria, Chapter twenty-seven, and of certain other Acts, as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty.*

[20*th August* 1860.]

Preamble

Whereas it is not expedient that a separate *European* force should be continued for the local service of Her Majesty in *India*: Be it enacted &c.

So much of 22 & 23 Vic., c 27 and of certain other Acts as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty, repealed.

I. So much of the Act of Parliament of the twenty-second and twenty-third years of Her Majesty, Chapter twenty-seven, intituled an Act to repeal the thirty-first Section of sixteenth and seventeenth *Victoria*, Chapter ninety-five, and to alter the limit of the number of *European* Troops to be maintained for local service in *India*, and of any former Act or Acts of Parliament, as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of *European* forces as he may judge necessary for the *Indian* Army of Her Majesty, is hereby repealed: Provided always, that the same or equal provision for the sons of persons who have served in *India*, and the advantages as to pay, pensions, allowances, privileges, promotion, and otherwise, secured to the military forces of the *East India* Company by the Act of the twenty-first and twenty-second years of the Queen, Chapter one hundred and six, Sections thirty-five, fifty-six, and fifty-eight, respectively, shall be maintained in any plan for the re-organization of the *Indian* Army, anything in this Act contained notwithstanding.

Provision as to certain persons who have served in India.

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23 & 24 VICTORIÆ, CAP. CXXII.

An Act *to enable the legislatures of Her Majesty's possessions abroad to make enactments similar to the enactment of the Act ninth George the Fourth, Chapter thirty-one, Section eight.*

[28*th August* 1860.]

Preamble. 9 G. 4, c. 31.

Whereas by an Act passed in the ninth year of His late Majesty *George* the Fourth, intituled an Act for consolidating and amending the statutes in *England* relating to offences against the person, it was enacted (amongst other things), that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place in *England*, should die of such stroke, poisoning, or hurt upon the sea or at any place out of *England*, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, might be dealt with, inquired for, tried, determined, and punished in the country or place in *England* in which such stroke, poisoning, or hurt should happen, in the same manner in all respects as if such offence had been wholly committed in that country or place: And whereas it may be desirable that provisions similar or analogous to the above-recited provisions should be made with respect to offences committed within Her Majesty's possessions abroad: And whereas doubts

are entertained whether it is competent to the legislature of any such possession to make such provision: Be it therefore enacted &c.

Legislatures of possessions abroad empowered to make ordinances enacting to the like effect as in provisions of Sec. 8 of 9 G. 4., c. 31.

I. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession, or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

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23 & 24 VICTORIÆ, CAP. CXXX.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[28*th August* 1860.]

Preamble.

WHEREAS the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding three millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-one, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole three millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under the hands of two members of the Council, countersigned by Secretary of State or one Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India* or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed;

Coupons by delivery.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

Capital stock and annuities may be created and issued.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them.

Annuities personal estate.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise.

The whole amount charged on revenue

IX. The whole amount of the principal moneys to be charged on the revenues of *India* under this Act shall not exceed three millions; and no money shall be raised or secured

of India not to exceed three millions.

under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-one, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act as hereinafter provided.

Power to raise money for payment of principal money.

X. Upon or for the re-payment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c., to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out; That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

24 VICTORIÆ, CAP. IV.

An Act *for amending the Red Sea and India Telegraph Act*, 1859.

[22*nd March* 1861.]

Preamble.

Whereas in the year one thousand eight hundred and fifty-eight a Joint Stock Company was incorporated, under the Joint Stock Companies' Act, 1856, by the name of "The *Red Sea* and *India* Telegraph Company, Limited," for the purpose of establishing telegraphic communication between *England* and *India* by the *Red Sea:* And whereas by an indenture of agreement, dated the eighteenth day of *November* one thousand eight hundred and fifty-eight, and made between the Right Honourable *Edward Geoffrey*, Earl of *Derby*, and the Right Honourable *Benjamin D'Israeli*, two of the Lords Commissioners of Her Majesty's Treasury, of the one part, and the said Company of the other part, it was, amongst other things, provided as follows: "That the Lords Commissioners of Her Majesty's Treasury shall guarantee to the Company (subject to such confirmation by Act of Parliament as hereinafter-mentioned) that during the period of fifty years from the fourth day of *August* in the year of our Lord one thousand eight hundred and fifty-eight, the net receipts available for dividends upon each half-yearly statement of accounts, after payment of working expenses, as hereinafter-mentioned, shall be equal to interest or dividend at the rate of four and a half *per centum per annum* at the least upon the amount of the capital for the time being *bonâ fide* called and paid up for the purpose of the Company's undertaking, not exceeding in any case, except as hereinafter-mentioned, the sum of eight hundred thousand pounds, and shall, if and so often as during the said period of fifty years upon any half-yearly statement of accounts the net receipts available for dividend after the payment of working expenses shall not be equal to interest or dividend at the rate of two and a quarter *per centum* for the half-year upon the above-mentioned amount of capital, pay and make good such deficiency to the Company: Provided always, that in the calculation of the amount to which the Company are entitled upon this guarantee all capital paid up in the course of the current half-year shall be taken to be entitled to interest or dividend at the above-mentioned rate only from the time when the same was so paid up; provided also, that all amounts paid by the Lords Commissioners under this guarantee shall be a charge upon the Company, to be repaid out of future surplus profits, as hereinafter provided:" And whereas the said Company was afterwards incorporated by the *Red Sea* and *India* Telegraph Act, 1859, and the said indenture of agreement was by the said Act confirmed: And whereas doubts are entertained whether the said agreement empowers the said Commissioners to give effect to such guarantee, except during such time as the line of Telegraph of the Company is in working order: And whereas it is expedient that such doubts should be removed: Be it enacted &c.

Construction of agreement.

I. It is hereby declared, that the guarantee contained in the said agreement was not intended to be and is not conditional on the line of Telegraph of the Company being in working order.

Acts to be construed together.

II. This Act and the *Red Sea* and *India* Telegraph Act, 1859, shall be construed together as one Act.

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24 VICTORIÆ, CAP. XI.

An Act to afford facilities for the better ascertainment of the law of Foreign Countries when pleaded in Courts within Her Majesty's dominions.

[17*th May* 1861.]

Preamble. 22 & 23 Vic., c. 63.

Whereas an Act was passed in the twenty-second and twenty-third years of Her Majesty's reign, intituled an Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof: And whereas it is expedient to afford the like facilities for the better ascertainment, in similar circumstances, of the law of any foreign country or State with the Government of which Her Majesty may be pleased to enter into a convention for the purpose of mutually ascertaining the law of such foreign country or State when pleaded in actions depending in any Courts within Her Majesty's dominions and the law as administered in any part of Her Majesty's dominions when pleaded in actions depending in the Courts of such foreign country or State: Be it therefore enacted &c.

Superior Courts within Her Majesty's dominions may remit a case, with queries, to a Court of any foreign State with which Her Majesty may have made a convention for that purpose, for ascertainment of law of such State.

I. If, in any action depending in any of the Superior Courts within Her Majesty's dominions it shall be the opinion of such Court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign State or country with the Government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the Court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose in the event of the parties not agreeing; and upon such case being approved of by such Court or a Judge thereof, such Court or Judge shall settle the questions of law arising out of the same on which they desire to have the opinion of another Court, and shall pronounce an order remitting the same, together with the case, to such Superior Court in such foreign State or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign Court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them; and upon such opinion being pronounced, a copy thereof, certified by an officer of such Court, shall be deemed and held to contain a correct record of such opinion.

Court in which action depends to apply such opinion to the facts set forth in cases, &c.

II. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the Court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on

a certain day named in such notice, move the Court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said Court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such Court itself upon a case reserved for opinion of the Court, or upon special verdict of a jury; or the said last-mentioned Court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated, and the said opinion shall be so submitted to the jury: Provided always, that if after having obtained such certified copy the Court shall not be satisfied that the facts had been properly understood by the foreign Court to which the case was remitted, or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such Court to remit the said case, either with or without alterations or amendments, to the same or to any other such Superior Court in such foreign State as aforesaid and so from time to time as may be necessary or expedient.

Courts in Her Majesty's dominions may pronounce opinion on case remitted by a foreign Court.

III. If, in any action depending in any Court of a foreign country or State with whose Government Her Majesty shall have entered into a convention as above set forth, such Court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign Court in which such action may depend shall remit to the Court in Her Majesty's dominions whose opinion is desired a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a Court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned Court, whose opinion is to be obtained, praying such Court to hear parties or their Counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or Counsel; and the Court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their Counsel on such case, and shall pronounce the opinion upon the questions of law as administered by them which are submitted to them by the foreign Court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper, and upon such opinion being pronounced a copy thereof, certified by an officer of such Court, shall be given to each of the parties to the action by whom the same shall be required.

Interpretation of terms.

IV. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any Court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in *England*, the Superior Courts of Law at *Westminster*, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial causes, and the Judge of the Court of Probate; in *Scotland*, the High Court of Justiciary, and the Court of Session, acting by either of its divisions; in *Ireland*, the Superior Courts of Law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty

Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein; and in a foreign country or State, any Superior Court or Courts which shall be set forth in any such convention between Her Majesty and the Government of such foreign country or State.

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24 & 25 VICTORIÆ, CAP. XXV.

An Act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.

[28*th June* 1861.]

Preamble.

Whereas the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding four millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole four millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under hands of members of Council, countersigned by Secretary or Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India* or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed;

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion

of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery. Coupons by delivery.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities. Capital stock and annuities may be created and issued.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them. Transfer books of such capital stock and annuities to be kept.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise. Annuities personal estate.

IX. The whole amount of the principal moneys to be charged on the revenues of *India* under this Act shall not exceed four millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act as hereinafter provided. The whole amount charged on revenue of India not to exceed four millions.

X. Upon or for the re-payment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Power to raise money for payment of principal money.

Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c., to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act.

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year, the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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24 & 25 VICTORIÆ, CAP. LIV.

AN ACT *to confirm certain appointments in India, and to amend the law concerning the Civil Service there.*

[1*st August* 1861].

Preamble. 33 G. 3, c. 52.

WHEREAS by Section fifty-six of an Act of the thirty-third year of King *George* the Third, Chapter fifty-two, it was enacted that all the Civil Servants of the *East India* Company in *India* under the rank or degree of members of Council should have and be en-

titled to precedence in the service of the said Company at their respective stations according to their seniority of appointment, and that no such Civil Servant should be capable of being advanced or promoted to any higher station, rank, or degree therein than he should be entitled to according to the length of his service; and by Section fifty-seven of the same Act it was enacted that all vacancies happening in any of the offices, places, or employments in the civil line of the Company's service in *India* (being under the degree of Counsellor) should be from time to time filled up and supplied from amongst the Civil Servants of the said Company belonging to the Presidency wherein such vacancies should respectively happen: And whereas by reason of the exigencies of the public service vacancies in certain offices, places, and employments in *India* have been filled up by the appointment of persons not being Civil Servants, or not being Civil Servants belonging to the Presidency wherein the vacancies have happened, and otherwise not in accordance with the provisions of the said enactments, and it is expedient that such appointments should be rendered valid, and also that the authorities in *India* should be empowered to make such appointments in like cases in future: Be it enacted &c.

Appointments not in accordance with 33 G. 3, c. 52 valid.

I. All appointments made by the authorities in *India* to any such offices, places, or employments shall be and be deemed to have been as valid and effectual as if the Act hereinbefore recited or referred to had not been passed.

Vacancies in offices to be supplied by covenanted Civil Servants.

II. All vacancies happening in any of the offices, places, or employments specified in the Schedule annexed to this Act, and all such offices which may be created hereafter, shall be filled up and supplied, except as hereinafter provided, from amongst the covenanted Civil Servants of the Crown in *India*.

Persons not covenanted Civil Servants may, under special circumstances, be appointed to such offices, subject to certain restrictions.

III. Where it appears to the authority in *India* by whom an appointment should be made to any office, place, or employment specified in the said Schedule, that such appointment, under the special circumstances of the case, should be made without regard to the recited qualifications, conditions, and restrictions of the said Act, it shall be lawful for such authority to make such appointment accordingly; provided that no person shall be so appointed who has not resided for at least seven years in *India*, and that every person previously to his being so appointed to any of the offices in the revenue and judicial departments specified in the said Schedule shall pass an examination in the vernacular language of the district in which he is to be employed, where such examination is now required, and shall be subject to all the departmental tests and other qualifications and restrictions which are or may be imposed in the like case on covenanted Civil Servants.

Such appointment in each case to be reported to the Secretary of State.

IV. Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State in Council of *India*, together with the special reasons for making the same; and unless the Secretary of State in Council shall approve such appointment, with the concurrence of a majority of members present at a meeting, and shall within twelve months from the date of such appointment notify such approval to the authority by whom the appointment was made, then such appointment shall be cancelled.

Certain offices may be filled up without regard to restrictions prescribed by recited Act.

V. All vacancies happening in any other offices, places, or employments than those mentioned in the said Schedule, and all other offices than those so mentioned that may hereafter be created in *India*, may be filled up and supplied without regard to the qualifications, conditions, and restrictions prescribed by the said Act.

Act not to apply to office of Lieutenant Governor, &c.

VI. Provided always, that this Act shall not apply to the office of Lieutenant-Governor of any part of Her Majesty's dominions in *India*, or to any offices for the supply of which provision may be made by any other Act of the present Session of Parliament.

So much of 33 G. 3, c. 52 as requires seniority, &c, for appointments repealed.

VII. Section fifty-six of the said Act of the thirty-third year of King *George* the Third, and so much of the other Sections of the said Act and of any other Act now in force as requires seniority as a condition or qualification for the appointment of Civil Servants to offices, places, or employments, shall be repealed.

SCHEDULE.

Secretaries, Junior Secretaries, and Under Secretaries to the several Governments in India, except the Secretaries, Junior Secretaries, and Under Secretaries in the Military, Marine, and Public Works Departments.

Accountant General.

Civil Auditor.

Sub-Treasurer.

Judicial.

1. Civil and Session Judges, or Chief Judicial Officers of Districts in the Provinces now known as Regulation Provinces.

2. Additional and Assistant Judges in the said Provinces.

3. Magistrates or Chief Magisterial Officers of Districts in the said Provinces.

4. Joint Magistrates in the said Provinces.

5. Assistant Magistrates or Assistants to Magistrates in the said Provinces.

Revenue.

1. Members of the Board of Revenue in the Presidencies of Bengal and Madras.

2. Secretaries to the said Boards of Revenue.

3. Commissioners of Revenue or Chief Revenue Officers of Divisions in the Provinces now known as Regulation Provinces.

4. Collectors of Revenue or Chief Revenue Officers of Districts in the said Provinces.

5. Deputy or Subordinate Collectors where combined with the office of Joint Magistrate in the said Provinces.

6. Assistant Collectors or Assistants to Collectors in the said Provinces.

7. Salt Agents.

8. Controller of Salt Chowkies.

9. Commissioners of Customs, Salt, and Opium.

10. Opium Agents.

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24 & 25 VICTORIÆ, CAP. LXVII.

AN ACT *to make better provision for the constitution of the Council of the Governor General of India, and for the local government of the several Presidencies and Provinces of India, and for the temporary government of India in the event of a vacancy in the office of Governor General.*

[1*st August* 1861.]

[Amended by 28 Vic., cap. 17.]

Preamble.

WHEREAS it is expedient that the provisions of former Acts of Parliament respecting the constitution and functions of the Council of the Governor General of *India* should be consolidated and in certain respects amended, and that power should be given to the Governors in Councilof the Presidencies of *Fort Saint George* and *Bombay* to make laws and regulations for the government of the said Presidencies, and that provision should be made for constituting the like authority in other parts of Her Majesty's *Indian* dominions: Be it therefore enacted &c.

Short title.

I. This Act may be cited for all purposes as "The *Indian* Councils Act, 1861."

Acts and parts of Acts repealed.

II. Sections forty, forty-three, forty-four, fifty, sixty-six, seventy, and so much of Sections sixty-one and sixty-four as relates to vacancies in the office of ordinary member of the Council of *India*, of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, for effecting an arrangement with the *East India* Company, and for the better government of Her Majesty's *Indian* territories, till the thirtieth day of *April* one thousand eight hundred and fifty-four, Sections twenty-two, twenty-three, twenty-four, and twenty-six of the Act of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, "to provide for the government of *India*," and the Act of the twenty-third and twenty-fourth years of Her Majesty, Chapter eighty-seven, "to remove doubts as to the authority of the senior member of the Council of the Governor General of *India* in the absence of the President," are hereby repealed, and all other enactments whatsoever now in force with relation to the Council of the Governor General of *India*, or to the Councils of the Governors of the respective Presidencies of *Fort Saint George* and *Bombay*, shall, save so far as the same are altered by or are repugnant to this Act, continue in force, and be applicable to the Council of the Governor General of *India* and the Councils of the respective Presidencies under this Act.

Composition of the Council of the Governor General of India.

III. There shall be five ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed by the Secretary of State for *India* in Council, with the concurrence of a majority of members present at a meeting, from among such persons as shall have been, at the time of such appointment in the ser-

vice in *India* of the Crown, or of the Company and the Crown, for at least ten years, and if the person so appointed shall be in the military service of the Crown he shall not, during his continuance in office as a member of Council, hold any military command, or be employed in actual military duties, and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in *Scotland* of not less than five years' standing, shall be appointed from time to time by Her Majesty by warrant under Her royal sign manual; and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's forces in *India* to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General.

Present members of Council to continue.

IV. The present ordinary members of the Council of the Governor General of *India* shall continue to be ordinary members under and for the purposes of this Act; and it shall be lawful for Her Majesty, on the passing of this Act, to appoint by warrant as aforesaid an ordinary member of Council, to complete the number of five hereby established; and there shall be paid to such ordinary member, and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting; and all enactments of any Act of Parliament or law of *India* respecting the Council of the Governor General of *India* and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act.

Power of making provisional appointments of members of Council by Secretary of State.

V. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant as aforesaid, respectively, to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from *India* with intent to return to *Europe*, or on any event and contingency expressed in any such provisional appointment, and such appointment again to revoke; but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office.

Provision on absence of Governor General in other parts of India.

VI. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of *India* unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be President of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure, any law or regulation, as hereinafter provided; and it shall be lawful in every such case for the said Governor General in Council, by an order for that purpose

to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every case in which the said Governor General may think it expedient to exercise the same, except the power of making laws or regulations.

Provision on absence of Governor General from meeting.

VII. Whenever the Governor General, or such President so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council (other than meetings for the purpose of making laws and regulations, as hereinafter provided), owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or President would have had in case he had been present at such meeting: Provided always, that no Act of Council made at any such meeting shall be valid to any effect whatsoever unless the same shall be signed by such Governor General or President respectively, if such Governor General or President shall at the time be resident at the place at which such meeting shall be assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that in case such Governor General or President, not being so prevented as aforesaid, shall decline or refuse to sign such Act of Council, he, and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by an Act of the thirty-third year of King *George* the Third, Chapter fifty-two, Sections forty-seven, forty-eight, forty-nine, fifty, and fifty-one, provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council.

Power of Governor General to make rules for conduct of business.

VIII. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council; and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council.

Power to Council to assemble at any place in India.

IX. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council, within the territories of *India*; and as often as the said Council shall assemble within either of the Presidencies of *Fort Saint George* or *Bombay*, the Governor of such Presidency shall act as an extraordinary member of Council; and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant Governor, such Lieutenant Governor shall act as an additional Councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner hereinafter provided.

Additional members to be summoned for the purpose of

X. For the better exercise of the power of making laws and regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to

making laws and regulations.

and the ordinary and extraordinary members above-mentioned, and to such Lieutenant Governor in the case aforesaid, such persons, not less than six nor more than twelve in number, as to him may seem expedient, to be members of Council for the purpose of making laws and regulations only, and such persons shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose: Provided that not less than one-half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in *India*, and that the seat in Council of any non-official member accepting office under the Crown in *India* shall be vacated on such acceptance.

Additional members to be appointed for two years.

XI. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations, for the term of two years from the date of such nomination.

Resignation of additional members.

XII. It shall be lawful for any such additional member of Council to resign his office to the Governor General, and on acceptance of such resignation by the Governor General such office shall become vacant.

Power to fill up vacancy in number of additional members.

XIII. On the event of a vacancy occurring by the death, acceptance of office, or resignation, accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor General to nominate any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning was nominated: Provided always, that it shall not be lawful for him by such nomination to diminish the porportion of non-official additional members hereinbefore directed to be nominated.

No law to be invalid by reason of number of non-official members being incomplete

XIV. No law or regulation made by the Governor General in Council, in accordance with the provisions of this Act, shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment.

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, &c.

XV. In the absence of the Governor General and of the President, nominated as aforesaid, the senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations; and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings of the said Council at which such Governor General or President, or some ordinary member of Council, and six or more members of the said Council, (including under the term members of the Council such additional members as aforesaid,) shall be present; and in every case of difference of opinion at meetings of the said Council for making laws and regulations where there shall be an equality of voices, the Governor General, or in his absence the President, and in the absence of the Governor General and President such senior ordinary member of Council there presiding, shall have two votes or the casting vote.

Quorum.

Governor General to appoint first meeting for making laws and regulations.

XVI. The Governor General in Council shall, as soon as conveniently may be, appoint a place and time for the first meeting of the said Council of the Governor General for making laws and regulations under this Act, and summon thereto as well the additional Councillors nominated by and under this Act, as the other members of such Council; and until such first meeting the powers now vested in the said Governor General of *India* in Council of making laws and regulations shall and may be exercised in like manner and by the same members as before the passing of this Act.

Power to appoint and adjourn meetings for making laws and regulations.

XVII. It shall be lawful for the Governor General in Council from time to time to appoint all other times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such President, or senior ordinary member of Council in his absence, to adjourn any meeting for the purpose of making laws and regulations from time to time and from place to place.

Governor General to make rules for conduct of business at such meetings.

XVIII. It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings, but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General; and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations: Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect.

Business to be transacted at such meetings.

XIX. No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last hereinbefore provided, other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting,—

1*st.*—The public debt or public revenues of *India*, or by which any charge would be imposed on such revenues:

2*nd.*—The religion or religious rites and usages of any class of Her Majesty's subjects in *India*:

3*rd.*—The discipline or maintenance of any part of Her Majesty's military or naval forces:

4*th.*—The relations of the government with foreign Princes or States.

Assent of Governor General to laws made at such meetings.

XX. When any law or regulation has been made by the Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the

Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon; and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified Her assent to the same to the Governor General, through the Secretary of State for *India* in Council, and such assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow laws made at such meetings.

XXI. Whenever any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for *India* an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such law; and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification to his Council, that he has received the notification of such disallowance by Her Majesty.

Extent of the powers of the Governor General in Council to make laws and regulations at such meetings.

XXII. The Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever now in force or hereafter to be in force in the *Indian* territories now under the dominion of Her Majesty, and to make laws and regulations for all persons, whether *British* or Native, foreigners or others, and for all Courts of Justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of *India* within the dominions of Princes and States in alliance with Her Majesty *(a)*; and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively in Council, or the Governor or Lieutenant Governor in Council of any Presidency or other territory for which a Council may be appointed, with power to make laws and regulations, under and by virtue of this Act: Provided always, that the said Governor General in Council shall not have the power of making any laws or regulations which shall repeal or in any way affect any of the provisions of this Act:

Or any of the provisions of the Acts of the third and fourth years of King *William* the Fourth, Chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, and of the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, which after the passing of this Act shall remain in force:

Or any provisions of the Act of the twenty-first and twenty-second years of Her Majesty, Chapter one hundred and six, entitled an Act for the better Government of *India*; or of the Act of the twenty-second and twenty-third years of Her Majesty, Chapter forty-one, to amend the same:

(*a*). This power is enlarged by 28 Vic., c. 17, sec. 1—*Ed.*

Or of any Act enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of *India*:

Or of the Acts for punishing mutiny and desertion in Her Majesty's Army or in Her Majesty's *Indian* forces respectively; but subject to the provision contained in the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, Section seventy-three, respecting the *Indian* Articles of War:

Or any provisions of any Act passed in this present Session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's *Indian* territories, or the inhabitants thereof:

Or which may affect the authority of Parliament, or the constitution and rights of the *East India* Company, or any part of the unwritten laws or constitution of the United Kingdom of *Great Britain* and *Ireland*, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the Crown over any part of the said territories.

Governor General may make ordinances having force of law in cases of urgent necessity.

XXIII. Notwithstanding anything in this Act contained, it shall be lawful for the Governor General, in cases of emergency, to make and promulgate from time to time ordinances for the peace and good government of the said territories or of any part thereof, subject however to the restrictions contained in the last preceding Section; and every such ordinance shall have like force of law with a law or regulation made by the Governor General in Council, as by this Act provided, for the space of not more than six months from its promulgation, unless the disallowance of such ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for *India* in Council or unless such ordinance shall be controlled or superseded by some law or regulation made by the Governor General in Council at a meeting for the purpose of making laws and regulations as by this Act provided.

No law, &c., invalid by reason of it affecting any prerogative of the Crown.

XXIV. No law or regulation made by the Governor General in Council (subject to the power of disallowance by the Crown, as hereinbefore provided), shall be deemed invalid by reason only that it affects the prerogative of the Crown.

Laws made for the non-regulation provinces declared valid.

XXV. Whereas doubts have been entertained whether the Governor General of *India*, or the Governor General of *India* in Council, had the power of making rules, laws, and regulations for the territories known from time to time as "Non-Regulation Provinces," except at meetings for making laws and regulations in conformity with the provisions of the said Acts of the third and fourth years of King *William* the Fourth, Chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, and whether the Governor, or Governor in Council, or Lieutenant Governor of any Presidency or part of *India*, had such power in respect of any such territories: Be it enacted, that no rule, law, or regulation which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the authorities aforesaid, for and in respect of any such non-regulation province,

shall be deemed invalid only by reason of the same not having been made in conformity with the provisions of the said Acts, or of any other Act of Parliament respecting the constitution and powers of the Council of *India* or of the Governor General, or respecting the powers of such Governors, or Governors in Council, or Lieutenant Governors as aforesaid.

Provision for leave of absence to an ordinary member of Council.

XXVI. It shall be lawful for the Governor General in Council, or Governor in Council of either of the Presidencies, as the case may be, to grant to an ordinary member of Council leave of absence, under medical certificate, for a period not exceeding six months; and such member, during his absence, shall retain his office, and shall, on his return and resumption of his duties, receive half his salary for the period of such absence, but if his absence shall exceed six months, his office shall be vacated.

Power of making temporary appointments of members of Council by Governor General or Governor of a Presidency.

XXVII. If any vacancy shall happen in the office of an ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, when no person provisionally appointed to succeed thereto shall be then present on the spot, then, and on every such occasion, such vacancy shall be supplied by the appointment of the Governor General in Council, or the Governor in Council, as the case may be; and until a successor shall arrive the person so nominated shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of Council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office; and if any ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, shall, by any infirmity or otherwise, be rendered incapable of acting or of attending to act as such, or if any such member shall be absent on leave, and if any person shall have been provisionally appointed as aforesaid, then the place of such member absent or unable to attend shall be supplied by such person; and if no person provisionally appointed to succeed to the office shall be then on the spot, the Governor General in Council, or Governor in Council, as the case may be, shall appoint some person to be a temporary member of Council, and, until the return of the member so absent or unable to attend, the person so provisionally appointed by the Secretary of State in Council, or so appointed by the Governor General in Council, or Governor in Council, as the case may be, shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall receive half the salary of the member of Council whose place he supplies, and also half the salary of his office under the Government of *India*, or the Government of either of the Presidencies, as the case may be, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Government of *India*, or other Government as aforesaid: Provided always, that no person shall be appointed a temporary member of the said Council who might not have been appointed as hereinbefore provided to fill the vacancy supplied by such temporary appointment.

Power to Governors of Fort Saint George and Bombay to make rules for the conduct of business.

XXVIII. It shall be lawful for the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively from time to time to make rules and orders for the conduct of business in their Councils, and any order made or act done in accordance with such directions

(except as hereinafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor in Council.

Power to summon additional members to the Council of Fort Saint George and Bombay for the purpose of making laws and regulations.

XXIX. For the better exercise of the power of making laws and regulations hereinafter vested in the Governors of the said Presidencies in Council respectively, each of the said Governors shall, in addition to the members whereof his Council now by law consists, or may consist, termed herein ordinary members, nominate to be additional members the Advocate General of the Presidency or officer acting in that capacity, and such other persons, not less than four or more than eight in number, as to him may seem expedient, to be members of Council, for the purpose of making laws and regulations only, and such members shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose; provided that not less than half of the persons so nominated shall be non-official persons, as hereinbefore described, and that the seat in Council of any non-official member accepting office under the Crown in *India* shall be vacated on such acceptance.

Additional members to be appointed for two years.

XXX. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination.

Resignation of additional members.

XXXI. It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency; and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant.

Power to fill up vacancy in the number of additional members.

XXXII. On the event of a vacancy occurring by the death, acceptance of office, or resignation accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor of the Presidency to summon any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning was nominated: Provided always, it shall not be lawful for him by such nomination to diminish the proportion of non-official members hereinbefore directed to be nominated.

No law to be invalid by reason of incompleteness of number of non-official members.

XXXIII. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment.

Senior civil ordinary member of Council to preside in absence of Governor of Presidency.

XXXIV. At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior civil ordinary member of Council present shall preside; and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council, and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present; and in any case of difference of opinion at meetings of any such Council for making laws and regulations, where there shall be an equality of voices, the Governor, or in his absence the senior member then presiding, shall have two votes or the casting vote.

Governor General to fix first meeting of Councils of Presidencies for making laws and regulations.

XXXV. The Governor General in Council shall, as soon as conveniently may be, appoint the time for the first meeting of the Councils of *Fort Saint George* and *Bombay* respectively, for the purpose of making laws and regulations under this Act, and the Governors of the said Presidencies respectively shall summon to such meeting as well the additional Councillors appointed by and under this Act as the ordinary members of the said Councils.

Governors of Presidencies to appoint subsequent meetings, and adjourn them.

XXXVI. It shall be lawful for every such Governor to appoint all subsequent times and places of meeting of his Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place.

Governors to make rules and orders for conduct of business at such meetings.

XXXVII. Previously to the first of such meetings of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings, subject to the sanction of the Governor General in Council; but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor: Provided always, that it shall be lawful for the Governor General in Council to disallow any such rule, and render the same of no effect.

Business to be transacted at such meetings.

XXXVIII. No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last hereinbefore provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge shall be imposed on such revenues.

Governors to assent to laws and regulations of Presidencies.

XXXIX. When any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he assents to, or withholds his assent from, the same.

Governor General to assent to laws and regulations of Presidencies.

XL. The Governor shall transmit forthwith an authentic copy of every law or regulation to which he shall have so declared his assent to the Governor General, and no such law or regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to and published by the Governor: Provided always, that in every case where the Governor General shall withhold his assent from any such law or regulation, he shall signify to the Governor in writing his reason for so withholding his assent.

Power of the Crown to disallow laws and regulations of Presidencies.

XLI. Whenever any such law or regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for *India* an authentic copy thereof, and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such law or regulation, and such disallowance shall make void and annul such law or regulation from or after the day on which such Governor shall make known by proclamation, or by signification to the Council, that he has received the notification of such disallowance by Her Majesty.

Extent of power of Governor of Presidency in Council to make laws and regulations.

XLII. The Governor of each of the said Presidencies in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and, subject to the provisions herein contained, to make laws and regulations for the peace and good government of such Presidency, and for that purpose to repeal and amend any laws and regulations made prior to the coming into operation of this Act by any authority in *India*, so far as they affect such Presidency: Provided always, that such Governor in Council shall not have the power of making any laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force, or hereafter to be in force, in such Presidency.

Governor of Presidency, except with sanction of Governor General, not to make or take into consideration certain laws or regulations.

XLIII. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next hereinafter mentioned; that is to say,

1. Affecting the public debt of *India*, or the customs duties, or any other tax or duty now in force and imposed by the authority of the Government of *India* for the general purposes of such government:

2. Regulating any of the current coin, or the issue of any bills, notes, or other paper currency:

3. Regulating the conveyance of letters by the Post Office or messages by the Electric Telegraph within the Presidency:

4. Altering in any way the Penal Code of *India*, as established by Act of the Governor General in Council, No. 42 (*a*) of 1860:

5. Affecting the religion or religious rites and usages of any class of Her Majesty's subjects in *India*:

6. Affecting the discipline or maintenance of any part of Her Majesty's military or naval forces:

7. Regulating patents or copyright:

8. Affecting the relations of the Government with foreign Princes or States:

Provided always, that no law, or provision of any law or regulation which shall have been made by any such Governor in Council, and assented to by the Governor General as

(*a*) *Sic.*—The Penal Code is Act No. XLV of 1860.

aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

Governor General may establish Councils for making laws and regulations in the Presidency of Fort William in Bengal, and in other parts of India.

XLIV. The Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of *Fort Saint George* and *Bombay* to the *Bengal* division of the Presidency of *Fort William*, and shall specify in such proclamation the period at which such provisions shall take effect, and the number of Councillors whom the Lieutenant Governor of the said division may nominate for his assistance in making laws and regulations; and it shall be further lawful for the Governor General in Council, from time to time and in his discretion, by similar proclamation, to extend the same provisions to the territories known as the North-Western Provinces and the *Punjab* respectively.

Constitution of such Councils.

XLV. Whenever such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant Governor thereof shall nominate, for his assistance in making laws and regulations, such number of Councillors as shall be in such proclamation specified; provided that not less than one-third of such Councillors shall in every case be non-official persons, as hereinbefore described, and that the nomination of such Councillors shall be subject to the sanction of the Governor General; and provided further, that at any meeting of any such Council from which the Lieutenant Governor shall be absent, the member highest in official rank among those who may hold office under the Crown shall preside; and the power of making laws and regulations shall be exercised only at meetings at which the Lieutenant Governor, or some member holding office as aforesaid, and not less than one-half of the members of Council so summoned as aforesaid, shall be present; and in any case of difference of opinion at any meetings of such Council for making laws and regulations, where there shall be an equality of voices, the Lieutenant Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the casting vote.

Power to constitute new provinces, and appoint Lieutenant Governors.

XLVI. It shall be lawful for the Governor General, by proclamation as aforesaid, to constitute from time to time new provinces for the purposes of this Act, to which the like provisions shall be applicable; and further to appoint from time to time a Lieutenant Governor to any province so constituted as aforesaid, and from time to time to declare and limit the extent of the authority of such Lieutenant Governor, in like manner as is provided by the Act of the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, respecting the Lieutenant Governors of *Bengal* and the North-Western Provinces.

Power to alter boundaries of provinces.

XLVII. It shall be lawful for the Governor General in Council, by such proclamation as aforesaid, to fix the limits of any Presidency, division, province, or territory in *India* for the purposes of this Act, and further by proclamation to divide or alter from time to time the limits of any such Presidency, division, province, or territory for the said purposes: Provided always, that any law or regulation made by the Governor or Lieutenant Governor in Council of any Presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation

until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the Presidency, division, province, or territory to which such parts may become annexed.

Former provisions of this Act extended to future Councils.

XLVIII. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory; and, except as otherwise hereinbefore specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of *Fort Saint George* and *Bombay*, and limiting the power of the Governors in Council of *Fort Saint George* and *Bombay* for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governor in Council of *Fort Saint George* and *Bombay*, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant Governor in Council.

Previous assent of the Crown necessary to give validity to any such proclamation.

XLIX. Provided always, that no proclamation to be made by the Governor General in Council under the provisions of this Act for the purpose of constituting any Council for the Presidency, division, provinces, or territories hereinbefore named, or any other provinces, or for altering the boundaries of any Presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

Provision for the supply of the office of Governor General in certain circumstances.

L. If any vacancy shall happen in the office of Governor General of *India* when no provisional successor shall be in *India* to supply such vacancy, then and in every such case the Governor of the Presidency of *Fort Saint George*, or the Governor of the Presidency of *Bombay* who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of *India* and Governor of the Presidency of *Fort William* in *Bengal* until a successor shall arrive, or until some person in *India* shall be duly appointed thereto; and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor General of *India*, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and allowances appertaining to the office of Governor to which he stands appointed, and such office of Governor shall be supplied for the time during which such Governor shall act as Governor General, in the manner directed in Section sixty-three of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five.

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may

LI. If, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for

make his appointment, &c., known by proclamation.

him to make known by proclamation his appointment, and his intention to assume the said office of Governor General, and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General; and from the date of the vacancy occurring until such Governor shall have assumed the said office of Governor General the provisions of Section sixty-two of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, shall be and the same are declared to be applicable to the case.

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

LII. Nothing in this Act contained shall be held to derogate from or interfere with (except as hereinbefore expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for *India* in Council, in relation to the government of Her Majesty's dominions in *India*, under any law in force at the date of the passing of this Act; and all things which shall be done by Her Majesty, or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed.

Meaning of term "in Council."

LIII. Wherever any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of *Fort Saint George* and *Bombay* in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations, unless where expressly provided.

Time when Act shall come into operation.

LIV. Except as hereinbefore specially provided, this Act shall commence and come into operation as soon as the same shall have been published by the said Governor General in Council by proclamation.

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24 & 25 VICTORIÆ, CAP. LXXIV.

AN ACT *to render lawful the enlistment of persons transferred from the Indian to the general forces of Her Majesty, and to provide in certain respects for the rights of such persons.*

[*6th August* 1861.]

Preamble.

WHEREAS by a general order of His Excellency the Governor General of *India* in Council, dated at *Fort William*, of the tenth day of *April* one thousand eight hundred and sixty-one, certain conditions were prescribed and offers made to the *European* officers and men of the *Indian* forces of Her Majesty, in order to facilitate the amalgamation of the said forces with Her Majesty's general forces: And whereas certain parts of the said conditions and offers cannot be carried into effect without the authority of Parliament: Be it enacted &c.

Enlistment of soldiers transferred from the Indian to the general forces of Her Majesty to be valid for the unexpired portions of the service of such soldiers.

I. If any soldier of Her Majesty's *European* forces in *India* has volunteered or shall volunteer from the said forces to enlist in any regiment of Her Majesty's general army, and has made or shall make the declaration provided by the said order of the Governor General, and contained in the Schedule of this present Act, or to the like effect, any such enlistment is declared to be and shall be as valid and effectual, for the unexpired portion of the service of such soldier, as if such soldier had originally enlisted in Her Majesty's land forces under the provisions of the Act of the tenth and eleventh years of Her Majesty, Chapter thirty-seven, intituled an Act for limiting the time of service in the army.

Persons so transferred to be accounted natural-born subjects for purposes of military service.

II. The provisions of the Act of the first year of Her Majesty, Chapter twenty-nine, intituled an Act for enabling Her Majesty to grant the rank of general officers to foreigners now bearing Her Majesty's Commission, and to permit the enlistment of foreigners under certain restrictions, shall not apply to the case of officers or soldiers in the *Indian* forces of Her Majesty, not being natural-born subjects, who have been or may be transferred to Her Majesty's general forces under the condition of the said order; but every such officer or soldier shall be upon the same footing, for the purposes of military service and promotion, and every act or thing done or to be done in respect of the enlistment and attestation of any such soldier shall be as legal for all purposes as if he were a natural-born subject of Her Majesty.

Rights of persons so transferred to pensions for service in Her Majesty's general forces.

III. If any soldier who has been or shall be so transferred as aforesaid is or shall become entitled to claim any pension for service or would have become entitled to claim any pension if his service had been wholly performed either in Her Majesty's *Indian* or in Her Majesty's general forces, it shall be lawful for the Commissioners of *Chelsea Hospital* to take such claim into consideration in the same manner as they are by law empowered to do in the case of soldiers discharged from Her Majesty's general service, but such pension shall be calculated in accordance with the regulations either of Her Majesty's *Indian* or of Her Majesty's general forces according as such soldier may choose, but subject to such conditions as to the time and manner of exercising such choice as have been or may be prescribed by the Commander-in-Chief of Her Majesty's forces in *India*; and it shall be lawful for the Secretary of State for *India* in Council and the Commissioners of Her Majesty's treasury to make by agreement such regulations as they may deem just and expedient as to the apportionment of the pensions aforesaid between the respective revenues of *India* and of the United Kingdom of *Great Britain* and *Ireland*.

No enlistment in India invalid by reason of the absence of a warrant from the Secretary at War, or because made out of Her Majesty's dominions.

IV. No enlistment or attestation of any soldier or person into Her Majesty's general or *Indian* forces which shall have taken place within Her Majesty's dominions in *India*, or within the territories of any foreign State in *India*, prior to the publication of this Act in the said dominions, before any person appointed in that behalf by the Governor of any Presidency in *India*, shall be invalid only by reason that no warrant had, at the time of such appointment or of such enlistment or attestation, been signed by the Secretary at War in accordance with the provisions of any Act of Parliament for the punishment of mutiny and desertion, or that the person so appointed had not authority to act out of Her Ma-

jesty's dominions; but every soldier or person so attested shall be deemed to be an attested soldier to the same effect as if such warrant had been signed as aforesaid, and such enlistment or attestation had taken place within Her Majesty's dominions; and no person so appointed who shall have enlisted and attested any soldier or person for Her Majesty's general or *Indian* forces shall be deemed to have acted illegally in so doing by reason that no such warrant had been issued as aforesaid, or that such enlistment or attestation did not take place within Her Majesty's dominions.

THE SCHEDULE.

Declaration to be made by a soldier volunteering from Her Majesty's Indian forces to regiments of Her Majesty's general Army.

I *A. B.* do declare that I have been till now a [Private, *or* Corporal, *or* Sergeant, *as the case may be*] in the Regiment of in Her Majesty's *Indian* military forces; that I enlisted on the day of for a term of years, of which years and months remain unexpired; that I am of the age of years; that I am willing to be transferred from the Infantry [*or as the case may be*] of Her Majesty's *Indian* forces to the 101st Regiment Royal Bengal Fusiliers [*or as the case may be*] of Her Majesty's army, for the unexpired residue of my term of service; and to accept, according to the terms of a General Order of His Excellency the Governor General of India in Council, No. 332, of the 10th day of April 1861, the bounty of Rupees upon such transfer; and that I will serve Her Majesty, Her Heirs and Successors, for the said unexpired term of years and months from this date, provided my services should so long be required, and also for such further term, not exceeding two years, as shall be directed by the Commanding Officer on any foreign station.

_____ *Signature of Soldier.*

_____ *Signature of Witness.*

Declared before me,

_____ *Signature of Justice of the Peace or Magistrate.*

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24 & 25 VICTORIÆ, CAP. LXXXIX.

An Act *to increase the amount payable out of the revenues of India in respect of the retiring pay, pensions, and other expenses of that nature, of Her Majesty's British forces serving in India.*

[*6th August* 1861.]

Preamble. 4 G. 4, c. 71.

Whereas by an Act passed in the fourth year of the reign of His late Majesty King *George* the Fourth, Chapter seventy-one, it was enacted, that in order to provide for the

charge incurred for retiring pay and pensions, and other expenses of that nature, arising in respect of His Majesty's forces serving in *India*, the annual sum of sixty thousand pounds should from and after the thirtieth day of *April* one thousand eight hundred and twenty-two be paid into the receipt of His Majesty's Exchequer out of the territorial revenues of the *East Indies*: And whereas the said annual sum of sixty thousand pounds is insufficient to defray the above-mentioned charge, and it is expedient to increase the contribution to be paid out of the said revenues to meet the said charge: Be it therefore enacted &c.

Recited Act (4 Geo. 4, c. 71) partly repealed.

I. So much of the said Act as relates to the payment out of the territorial revenues of the *East Indies* of the said annual sum of sixty thousand pounds in respect of the retiring pay, pensions, and other expenses of that nature, arising in respect of Her Majesty's forces serving in *India*, shall be and the same is hereby repealed.

Charge on revenues of India for 1861-62.

II. From the thirty-first day of *March* one thousand eight hundred and sixty-one until the thirty-first day of *March* one thousand eight hundred and sixty-two there shall be paid out of the revenues of *India*, to the account of Her Majesty's Exchequer at the Bank of *England*, in respect of the above-mentioned charge, and in lieu of the said annual sum of sixty thousand pounds, a sum calculated at the rate of three pounds ten shillings *per* head *per annum* upon the number of Her Majesty's *British* forces chargeable upon the said revenues of *India*, exclusive of the number at the depôts or on passage, as shown by the monthly muster rolls, the payment to be made monthly, and to be calculated upon the number shown in the last monthly muster rolls received in *England* before each month for which payment is to be made.

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24 & 25 VICTORIÆ, CAP. CIV.

An Act *for establishing High Courts of Judicature in India.*

[*6th August* 1861.]

[Sections 10 & 18 repealed by 28 Vic., cap. 15, sec. 2.]

Preamble.

Be it enacted &c.

High Courts may be established in the several Presidencies of India.

I. It shall be lawful for Her Majesty, by Letters Patent under the great seal of the United Kingdom, to erect and establish a High Court of Judicature at *Fort William* in *Bengal* for the *Bengal* division of the Presidency of *Fort William* aforesaid, and by like Letters Patent to erect and establish like High Courts at *Madras* and *Bombay* for those Presidencies respectively, such High Courts to be established in the said several Presidencies at such time or respective times as to Her Majesty may seem fit, and the High Court to be established under any such Letters Patent in any of the said Presidencies shall be deemed to be established from and after the publication of such Letters Patent in the same Presidency, or such other time as in such Letters Patent may be appointed in this behalf.

Constitution of High Courts.

II. The High Court of Judicature at *Fort William* in *Bengal* and at the Presidencies of *Madras* and *Bombay* respectively shall consist of a Chief Justice and as many Judges,

not exceeding fifteen, as Her Majesty may from time to time think fit and appoint, who shall be selected from—

1*st.*—Barristers of not less than five years' standing; or,

2*nd.*—Members of the covenanted Civil service of not less than ten years' standing, and who shall have served as zillah Judges, or shall have exercised the like powers as those of a zillah Judge for at least three years of that period; or,

3*rd.*—Persons who have held judicial office not inferior to that of Principal Sudder Ameen or Judge of a Small Cause Court for a period of not less than five years; or,

4*th.*—Persons who have been pleaders of a Sudder Court or High Court for a period of not less than ten years, if such pleaders of a Sudder Court shall have been admitted as pleaders of a High Court:

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be barristers, and not less than one-third shall be members of the covenanted civil service.

Certain existing Judges herein named to be the first Judges of the High Court.

III. Provided always, that the persons who at the time of the establishment of such High Court in any of the said Presidencies are Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewanny Adawlut or Sudder Adawlut of the same Presidency shall be and become Judges of such High Court without further appointment for that purpose; and the Chief Justice of such Supreme Court shall become the Chief Justice of such High Court.

Tenure of office of High Courts.

IV. All the Judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure: Provided that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor General of *India* in Council or Governor in Council of the Presidency in which such High Court is established.

Precedence of Judges of High Courts.

V. The Chief Justice of any such High Court shall have rank and precedence before the other Judges of the same Court, and such of the other Judges of such Court as on its establishment shall have been transferred thereto from the Supreme Court shall have rank and precedence before the Judges of the High Court not transferred from the Supreme Court, and, except as aforesaid, all the Judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their Patents.

Salaries, &c., of Judges of the High Courts.

VI. Any Chief Justice or Judge transferred to any High Court from the Supreme Court shall receive the like salary and be entitled to the like retiring pension and advantage as he would have been entitled to for and in respect of service in the Supreme Court, if such Court had been continued, his service in the High Court being reckoned as service in the Supreme Court; and, except as aforesaid, it shall be lawful for the Secretary of

State in Council of *India* to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same: Provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

Provision for vacancy of the office of Chief Justice or other Judge.

VII. Upon the happening of a vacancy in the office of Chief Justice, and during any absence of a Chief Justice, the Governor General in Council or Governor in Council, as the case may be, shall appoint one of the Judges of the same High Court to perform the duties of Chief Justice of the said Court until some person has been appointed by Her Majesty to the office of Chief Justice of the same Court, and has entered on the discharge of the duties of such office, or until the Chief Justice has returned from such absence; and upon the happening of a vacancy in the office of any other Judge of any such High Court, and during any absence of any such Judge, or on the appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor General in Council or Governor in Council, as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a Judge of the said High Court, and the person so appointed shall be authorized to sit and to perform the duties of a Judge of the said Court until some person has been appointed by Her Majesty to the office of Judge of the same Court, and has entered on the discharge of the duties of such office, or until the absent Judge has returned from such absence, or until the Governor General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting Judge.

Abolition of Supreme Courts and Sudder Courts

VIII. Upon the establishment of such High Court as aforesaid in the Presidency of *Fort William* in *Bengal*, the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Nizamut Adawlut at *Calcutta* in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of *Madras* the Supreme Court and the Court of Sudder Adawlut and Foujdarry Adawlut in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of *Bombay* the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Foujdarry Adawlut in the same Presidency shall be abolished:

And the records and documents of the several Courts so abolished in each Presidency shall become and be records and documents of the High Court established in the same Presidency.

Jurisdiction and powers of High Courts.

IX. Each of the High Courts to be established under this Act shall have and exercise all such civil, criminal, admiralty, and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however,

to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the Presidency towns as may be prescribed thereby; and, save as by such Letters Patent may be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of *India* in Council, the High Court to be established in each Presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the Courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned Courts.

X. *Repealed by* 28 *Vic., c.* 15, *s.* 2.

Existing provisions applicable to Supreme Courts to apply to High Courts.

XI. Upon the establishment of the said High Courts in the said Presidencies respectively all provisions then in force in *India* of Acts of Parliament, or of any orders of Her Majesty in Council, or charters, or of any Acts of the legislature of *India*, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts at *Fort William* in *Bengal*, *Madras*, and *Bombay* respectively, or to the Judges of those Courts, shall be taken to be applicable to the said High Courts, and to the Judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof, and subject to the legislative powers in relation to the matters aforesaid of the Governor General of *India* in Council.

Provision as to pending proceedings in abolished Courts.

XII. From and after the abolition of the Courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof, and such proceedings, and all previous proceedings in the said last-mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such proceedings may be continued, as nearly as circumstances permit, under and according to the practice of the abolished Courts respectively.

Power to High Courts to provide for exercise of jurisdiction by single Judges or division Courts.

XIII. Subject to any laws or regulations which may be made by the Governor General in Council, the High Court established in any Presidency under this Act may by its own rules provide for the exercise, by one or more Judges, or by division Courts constituted by two or more Judges of the said High Court, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Justice to determine what Judges shall sit alone or in the division Courts.

XIV. The Chief Justice of each High Court shall from time to time determine what Judge in each case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several division Courts as aforesaid.

High Court to superintend and to frame rules of practice for subordinate Courts.

XV. Each of the High Courts established under this Act shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, and to direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, and shall have power to make

and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of Courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled shall be used and observed in the said Courts, provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction, in the Presidency of *Fort William*, of the Governor General in Council, and in *Madras* or *Bombay* of the Governor in Council of the respective Presidencies.

Her Majesty may establish a High Court in the North-Western Provinces.

XVI. It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the great seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in *India*, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice and of such number of other Judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies hereinbefore mentioned, as Her Majesty from time to time may think fit and appoint; and it shall be lawful for Her Majesty by such Letters Patent to confer on such Court any such jurisdiction, powers, and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency hereinbefore mentioned; and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the Chief Justice and other Judges of such Court, and to the Governor General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the Chief Justice and other Judges thereof, and to the person administering the government of the said territories.

Other or supplemental charters may be granted within three years after establishment of a Court.

XVII. It shall be lawful for Her Majesty, if Her Majesty shall so think fit, at any time within three years *(a)* after the establishment of any High Court under this Act, by Her Letters Patent to revoke all or such parts or provisions as Her Majesty may think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty may think fit, and as might have been granted or made by such first Letters Patent, or without any such revocation as aforesaid, by like Letters Patent to grant and make any additional or supplementary powers and provisions which might have been granted or made in the first instance.

XVIII. *Repealed by* 28 *Vic., c.* 15, *s.* 2.

Interpretation of terms.

XIX. The word "Barrister" in this Act shall be deemed to include Barristers of *England* or *Ireland* or Members of the faculty of Advocates in *Scotland*; and the words "Governor-General and Governor" shall comprehend the officer administering the government.

(*a*). This time was extended, by 28 Vic., c. 15, s. 1, to 1st January 1866.

24 & 25 VICTORIÆ, CAP. CXIV.

An Act to amend the law with respect to Wills of personal estate made by British subjects.

[*6th August* 1861.]

Be it enacted &c.

Wills made out of the Kingdom to be admitted if made according to the law of the place where made.

I. Every Will and other testamentary instrument made out of the United Kingdom by a *British* subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed for the purpose of being admitted in *England* and *Ireland* to probate, and in *Scotland* to confirmation, if the same be made according to the forms required either by the law of the place where the same was made or by the law of the place where such person was domiciled when the same was made, or by the laws then in force *(a)* in that part of Her Majesty's dominions where he had his domicile of origin.

Wills made in the Kingdom to be admitted if made according to local usage.

II. Every Will and other testamentary instrument made within the United Kingdom by any *British* subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in *England* and *Ireland* to probate, and in *Scotland* to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the United Kingdom where the same is made.

Change of domicile not to invalidate Will.

III. No Will or other testamentary instrument shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the same.

Nothing in this Act to invalidate Wills otherwise made.

IV. Nothing in this Act contained shall invalidate any Will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed, except as such Will or other testamentary instrument may be revoked or altered by any subsequent Will or testamentary instrument made valid by this Act.

Extent of Act.

V. This Act shall extend only to Wills and other testamentary instruments made by persons who die after the passing of this Act.

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24 & 25 VICTORIÆ, CAP. CXVIII.

An Act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.

[*6th August* 1861.]

Preamble.

Whereas the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

(*a*). See Act No. X of 1865. (The Indian Succession Act.)

Power to the Secretary of State in Council of India to raise any sum not exceeding five millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole five millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under the hands of two members of the Council, countersigned by Secretary of State or one Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India*, or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed.

Coupons by delivery.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

Capital stock and annuities may be created and issued.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same re-

spectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them.

Annuities personal estate.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise.

The whole amount charged on revenue of India not to exceed five millions.

IX. The whole amount of the principal monies to be charged on the revenues of *India* under this Act shall not exceed five millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the repayment of principal monies previously secured under this Act as hereinafter provided.

Power to raise money for payment of principal money.

X. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act.

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to

and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of monies raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all monies raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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24 & 25 VICTORIÆ, CAP. CXXI.

An Act *to amend the law in relation to the Wills and domicile of British subjects dying whilst resident abroad, and of foreign subjects dying whilst resident within Her Majesty's dominions.*

[6*th August* 1861.]

Preamble.

Whereas by reason of the present law of domicile the Wills of *British* subjects dying whilst resident abroad are often defeated, and their personal property administered in a manner contrary to their expectations and belief; and it is desirable to amend such law, but the same cannot be effectually done without the consent and concurrence of foreign States: Be it therefore enacted &c.

No British subject dying in a foreign country to be deemed to have acquired a domicile unless resident there for one year immediately preceding his or her death, &c., and for all purposes of testate or intestate succession shall retain the domicile possessed at the time of going to reside in such foreign country.

I. Whenever Her Majesty shall by convention with any foreign State agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of Her Majesty and of such foreign State respectively, it shall be lawful for Her Majesty by any order in council to direct, and it is hereby enacted, that from and after the publication of such order in the *London Gazette* no *British* subject resident at the time of his or her death in the foreign country named in such order shall be deemed under any circumstances to have acquired a domicile in such country unless such *British* subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the order in council) a declaration in writing of his or her intention to become domiciled in such foreign country; and every *British* subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purposes of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

No foreign subject dying in Great Britain or Ireland to be deemed to have acquired a domicile unless resident therein for one year immediately preceding his or her death, &c.

II. After any such convention as aforesaid shall have been entered into by Her Majesty with any foreign State it shall be lawful for Her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of *Great Britain* or *Ireland* shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within *Great Britain* or *Ireland* for one year immediately preceding his or her decease, and shall also have signed, and deposited with Her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in *England*, *Scotland*, or *Ireland*, and that the law of the place of such domicile shall regulate his or her moveable succession.

Who this Act shall not apply to.

III. This Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of Her Majesty's dominions.

When subjects of foreign States shall die in Her Majesty's dominions, and there shall be no persons to administer to their estates, the consuls of such foreign States may administer.

IV. Whenever a convention shall be made between Her Majesty and any foreign State, whereby Her Majesty's consuls or vice-consuls in such foreign State shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for Her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that whenever any subject of such foreign State shall die within the dominions of Her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign State within that part of Her Majesty's dominions where such foreign subject shall die, to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses, and to retain the surplus for the benefit of the persons entitled thereto; but such consul, vice-consul, or consular agent shall immediately apply for and shall be entitled to obtain from the proper Court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such Court shall seem fit.

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25 VICTORIÆ, CAP. VII.

An Act *to provide for the registration and transfer of India stocks at the Bank of Ireland, and for the mutual transfer of such stocks from and to the Banks of England and Ireland respectively.*

[11*th April* 1862.]

(1) [Interpretation of expression "India Stock."]

(2) [Power to transfer India stock from the books of the Bank of England to the books of the Bank of Ireland.]

(3) [Assignments or transfers of stock so transferred may be made at the Bank of Ireland.]

(4) [Power to transfer India stock from the books of the Bank of Ireland to the books of the Bank of England.]

(5) [No transfer shall be made within a certain period before the closing day.]

(6) [Application to be made to the Banks of England and of Ireland for permission to transfer from the one to the other, and upon such transfers being made certificates to be granted.]

(7) [Notices of transfers to be sent to the Bank into which the stock is to be transferred.]

(8) [Books to be provided for entering transfers under this Act at the Banks of England and Ireland respectively.]

(9) [On production of certificate from the Bank where the transfer is made, the Bank to which the transfer is made shall write the amount of stock into their books.]

(10) [Banks of England and of Ireland to certify to the Secretary of State in Council of India the amount of stock written in their books prior to dividend, and the interest to be paid to them by such Secretary of State.]

(11) [Remuneration for services under this Act to be paid to the Bank of Ireland.]

(12) [Duplicates may be granted of certificates lost or destroyed.]

(13) [Power to Bank of Ireland to close books for transfer.]

(14) [Persons forging, &c., certificates guilty of felony.]

(15) [No fee, &c., to be taken for receiving certificates, or paying dividends, &c., on penalty of 20*l*, with costs of suit.]

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25 & 26 VICTORIÆ, CAP. XXVII.

An Act *to authorize payments for a further period out of the revenues of India in respect of the retiring pay, pensions, and other expenses of that nature of Her Majesty's British forces serving in India.*

[30*th June* 1862.]

Preamble. 24 & 25 Vic., c. 89.

Whereas by an Act passed in the Session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, Chapter eighty-nine, intituled an Act to increase the amount payable out of the revenues of *India* in respect of the retiring pay, pensions, and other expenses of that nature of Her Majesty's British forces serving in *India*, after reciting that the sum of sixty thousand pounds therein mentioned to have been hitherto paid annually into the receipt of Her Majesty's Exchequer out of the territorial revenues of the *East Indies*, in order to provide for the charge incurred for retiring pay and pensions and other expenses of that nature was insufficient, and that it was expedient that it should be increased, it was enacted, that from the thirty-first day of *March*

one thousand eight hundred and sixty-one until the thirty-first day of *March* one thousand eight hundred and sixty-two there should be paid out of the revenues of *India* to the account of Her Majesty's Exchequer such sum as therein mentioned, being the same as is herein required to be paid for a further limited period: And whereas it is expedient that the payment so made should be continued as hereinafter mentioned: Be it enacted &c.

Future charge on revenues of India.

I. From the thirty-first day of *March* one thousand eight hundred and sixty-two until the thirty-first day of *March* one thousand eight hundred and sixty-seven there shall be paid annually out of the revenues of *India*, to the account of Her Majesty's Exchequer at the Bank of *England*, in respect of the above-mentioned charge, a sum calculated at the rate of three pounds ten shillings *per* head *per annum* upon the number of Her Majesty's *British* forces chargeable upon the said revenues of *India*, exclusive of the number at the depôts or on passage, as shown by the monthly muster rolls, the payment to be made monthly, and to be calculated upon the number shown in the last monthly muster rolls received in *England* before each month for which payment is to be made.

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25 & 26 VICTORIÆ, CAP. XXXIX.

An Act *for enabling the Commissioners of Her Majesty's Treasury to make arrangements with the Red Sea and India Telegraph Company.*

[17*th July* 1862.]

(1) [Transfer of property from old Company to new.]

(2) [List of shareholders to be made.]

(3) [Charge upon consolidated fund of terminable annuities.]

(4) [Rights of shareholders to terminable annuities.]

(5) [Delivery of transfer books to Bank of England.]

(6) [Redemption of annuity.]

(7) [Contribution of revenues of India.]

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26 & 27 VICTORIÆ, CAP. XLVIII.

An Act *to repeal the Act of the twentieth and twenty-first years of Her Majesty, Chapter sixty-six, for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the service.*

[13*th July* 1863.]

Preamble. 26 & 27 Vic., c. 8.

Whereas it is expedient that the officers and soldiers of Her Majesty's *European* forces in *India* should from henceforth be subject to the provisions of such Acts for the

punishment of mutiny and desertion as may from time to time be passed for the government of Her Majesty's general forces: And whereas provision has been made in that behalf in the Act "for punishing mutiny and desertion, and for the better payment of the army and their quarters," which has been passed in the present Session of Parliament: Be it therefore enacted &c.

20 & 21 Vic., c. 66 repealed.

I. The Act passed in the twentieth and twenty-first years of Her Majesty, for punishing mutiny and desertion of officers and soldiers in the service of the *East India* Company, and for regulating in such service the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service, is hereby repealed.

Offences against repealed Act, and Articles of War made under it, and all existing proceedings, continued.

II. All crimes and offences which shall have been committed against the said Act hereby repealed, or against any of the Articles of War made and established by virtue of the same, may be inquired of and punished in like manner as if they had been committed against the said Mutiny Act of this present Session, and every warrant or order for holding any Court-martial under the said repealed Act shall remain in full force, and all proceedings of Courts-martial convened and held under any such warrant or order shall be still continued: Provided always, that no person shall be liable to be tried or punished for any offence against the said repealed Act, or any Articles of War made in pursuance thereof, which shall appear to have been committed more than three years before the date of the warrant or order for such trial, unless the person accused, by reason of his having absented himself, or of some other manifest impediment, shall not have been amenable to justice, within that period, in which case such person shall be liable to be tried at any time not exceeding two years after the impediment shall have ceased.

Not to affect provisions of 7 & 8 Vic., c. 28

III. Nothing in this Act, or in the said Mutiny Act passed in the present Session of Parliament, shall affect the provisions of an Act passed in the seventh year of Her Majesty, intituled an Act to remove doubts as to the power of appointing, convening, and confirming the sentences of Courts-martial in the *East Indies*, and all the provisions thereof shall remain in force, unless and except they may be in any respect inapplicable.

Commencement of Act.

IV. This Act shall commence and take effect from and after the first day of *February* one thousand eight hundred and sixty-five, or from and after any earlier day whereon the said Mutiny Act passed in the present Session of Parliament may become and be in full force in *India*, and from and after such day as aforesaid the Articles of War made by Her Majesty in pursuance of the said repealed Act shall cease and determine; Provided nevertheless, that full effect shall be given to the provisions hereinbefore contained respecting the punishment of offences against the said repealed Act and otherwise as hereinbefore is mentioned, and that, so far as may be necessary to give full effect to such provisions, the said repealed Act, and the Articles of War made in pursuance of the same, shall be deemed to be in full force.

Not to affect certain matters, &c., as to Native Indian officers and soldiers

V. Nothing in this Act contained shall in any manner prejudice or affect any Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force, under the authority of the Government of *India*, respecting officers or soldiers or followers in Her Majesty's *Indian* army, being Natives of India.

26 & 27 VICTORIÆ, CAP. LVII.

AN ACT *to consolidate and amend the Acts relating to the payment of regimental debts, and the distribution of the effects of officers and soldiers in case of death, and to make like provision for the cases of desertion and insanity, and other cases.*

[21*st July* 1863.]

Preamble. WHEREAS it is expedient to consolidate and amend the provisions now in force relating to the payment of regimental debts, and the distribution of the effects of officers and soldiers dying on service, and those provisions having been found beneficial, it is also expedient to make like provision for the security and application of the effects of deserters and others, and of officers and soldiers becoming insane on service: Be it therefore enacted &c.

Preliminary.

Short title. I. This Act may be cited as the Regimental Debts Act, 1863.

Interpretation of terms. II. In this Act—

The term "officer" means (except where it is otherwise expressed) a commissioned officer of Her Majesty's army, or of Her Majesty's *Indian* army:

The term "soldier" means (except where it is otherwise expressed) a soldier of Her Majesty's army, or a *European* soldier of Her Majesty's *Indian* army, including a warrant and a non-commissioned officer:

The term "representation" includes probate, and letters of administration, with or without Will annexed, and the corresponding documents or Acts in use according to the law of *Scotland*, or other law in force in any place where this Act operates:

The term "representative" means any person taking out representation:

The term "the Secretary of State for War" means such one of Her Majesty's principal Secretaries of State for the time being as Her Majesty thinks fit to intrust with the seals of the War Department:

21 & 22 Vic., c. 106. The term "*India*" means the territories for the time being vested in Her Majesty under the Act of the year 1858, "for the better Government of *India*:"

The term "the Secretary of State for *India* in Council" means one of Her Majesty's principal Secretaries of State acting with the Council of *India* under that Act:

The term "person" includes a corporation and any body of persons.

Repeal of enactments in Schedule. III. The enactments described in the Schedule to this Act shall be repealed; but this repeal shall not affect the past operation of any such enactment, or any thing already done, or any right, title, obligation, or liability already accrued thereunder, or any remedy or proceeding for the enforcement thereof.

Part I.—Death on Service.

Preferential Charges.

Definition of preferential charges on property,—military debts, &c.

IV. Where an officer or soldier dies on service, the following classes of expenses and debts incurred and owing by him or on his account shall, for the purposes of this Act, be considered preferential charges on his personal property, and be payable thereout in preference to all other debts and liabilities, and, as among themselves, in the following order:—

(1). Expenses of last illness and funeral:

(2). Military debts, namely, sums due in respect of—
Quarters;
Mess, band, and other regimental accounts;
Military clothing, appointments and equipments, not exceeding a sum equal to six months' pay of the deceased, and having become due within eighteen months before his death;
including sums due to any agent or to any Paymaster, Quartermaster, or other officer, on any such account, or on account of any advance made for any such purpose:

to which shall be added, where the death occurs out of the United Kingdom,—

(3). Servants' wages, not exceeding two months' wages to each servant:

(4). Household expenses incurred within a month before the death or after the last issue of pay to the deceased, whichever is the shorter period.

Surplus only of personal estate to be deemed personal estate.

V. The surplus only of the personal property of an officer or soldier dying on service, remaining over after payment of preferential charges, shall be considered personal estate of the deceased, with reference to the calculation of probate duty, or of any other tax or percentage, or for any of the purposes of administration or distribution.

Questions respecting amount, payment, &c., of preferential charges to be decided by Secretary of State, or in India by Military Secretary to Government of Presidency.

VI. If in any case a doubt or difference arises as to any particular expense or debt being a preferential charge or not,—or as to any alleged preferential charge having been in fact incurred, or being due, in the whole or in part, or not,—or as to the priority among or payment of any preferential charges, where the property is insufficient to pay all in full, or where those of one class exceed the amount allowed for that class,—or otherwise in relation to any preferential charge or the payment thereof,—the decision of the Secretary of State for War, where the death occurs elsewhere than in *India*, and of the Military Secretary to the Government of the Presidency in which the deceased was quartered, where the death occurs in *India*, or of such officer or person as the Secretary of State or Military Secretary respectively deputes by writing under his hand to act for him in this behalf, shall be final, and shall be binding on all persons for all purposes.

Collection and Disposal of Effects.

On death of officer or soldier on service, committee of

VII. Immediately on the death of an officer or soldier on service, such committee of officers as may be prescribed by royal warrant, according to the circumstances of

Officers to secure effects.

different cases, hereinafter called the Committee of Adjustment, shall secure all such of his effects as—

Where the death occurs in the United Kingdom, are in camp or quarters; and

Where the death occurs out of the United Kingdom, are within the station, colony, or command.

If preferential charges not paid, power to committee to sell and convert effects, and to get in credits, and, after payment of expenses, to secure surplus.

VIII. Provided, that if the representative of the deceased, or his widow (if any), or any of his next-of-kin, pays in full the preferential charges, the Committee of Adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the death, the Committee of Adjustment may and shall, without any representation taken out, and as if they were the representatives of the deceased, and to the exclusion of all other authorities and persons whomsoever, sell or convert into money such parts of the effects of the deceased as do not consist of money,—and also where the death occurs out of the United Kingdom get in and give receipts (which shall be effectual discharges) for all or any of the credits forming part of the estate of the deceased, and being payable or recoverable in *India* or in the colony or possession in which the deceased was quartered (as the case may be), and, if they think fit, sue for and recover any of such credits,—and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the preferential charges, and secure the surplus of the effects, or effects and credits, as the case may be, remaining over after all such payments.

In India, power for committee to deliver over effects to Administrator General.

IX. Where the death occurs in *India*, the Committee of Adjustment may, in such cases, under such circumstances, and at such time or times, as may be prescribed by royal warrant, according to the circumstances of different cases, deliver over the effects secured by them to the Administrator General for the Presidency(*a*) in which the deceased was quartered.

Disposal of Surplus.

Remittance of surplus by committee.

X. The Committee of Adjustment shall, according to the circumstances of the case, remit or lodge the surplus aforesaid to or in the hands of such Paymaster or other officer or person, at such time or times, in such manner, and together with such accounts, vouchers, reports, and information, as may be prescribed by royal warrant.

As to the payment of surplus where deaths occur in India or elsewhere.

XI. Where the death occurs elsewhere than in *India*, or the death occurs in *India*, the deceased being (in the latter case) a soldier of Her Majesty's army, then the Paymaster or other officer or person aforesaid shall dispose of the surplus as follows:—

(1). Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased, if present at head-quarters, and if there is none, shall forthwith remit it to the Secretary of State for War:

(2). Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out, but if representation is taken out, such Paymaster or other officer or person shall pay the amount over to the representative, if present at head-quarters:

(*a*) See Act XXIV of 1867, Secs. 21, 62—*Ed.*

(3). Where the amount does not exceed one hundred pounds, and representation is not taken out, then such Paymaster or other officer or person shall dispose of the amount, or part thereof, (in such manner as may be prescribed by royal warrant for such cases), for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being present at head-quarters; and if there are no such persons, or any part of the amount aforesaid is not so disposed of for their benefit, he shall forthwith remit the whole amount, or the part thereof not so disposed of, (as the case may be), to the Secretary of State for War.

Provision where death occurs in India, the deceased not being a soldier.

XII. Where the death occurs in *India*, the deceased not being a soldier of Her Majesty's army, the following provisions shall take effect:—

(1). The Paymaster or other officer or person aforesaid shall, as soon as may be after receiving the surplus aforesaid, publish such notice (stating the amount of the surplus, and other particulars respecting the deceased and his property,) as may be prescribed by royal warrant, together with a notice stating that all claims by creditors against the property of the deceased are to be lodged with such Paymaster or other officer or person, who shall retain the surplus for two months after the first publication of such Gazette notice as aforesaid, and shall receive and record all claims lodged with him accordingly:

(2). If claims are so lodged, not exceeding in the whole such absolute amount, or such proportion of the surplus, as may be prescribed by Royal warrant, according to the circumstances of different cases, then such Paymaster or other officer or person shall, at the expiration of the said two months, proceed to discharge the demands of the claimants who have lodged claims with him, unless under the special circumstances of the case of the deceased it appears to him inexpedient or unjust to do so:

(3). In that case, or in case the claims lodged exceed in the whole the absolute amount or the proportion aforesaid, then such Paymaster or other officer or person shall, without discharging those claims, or any of them, transfer the surplus aforesaid to the Administrator General for the Presidency (*a*):

(4). Where such Paymaster or other officer or person does not so transfer the surplus, he shall dispose thereof, or of so much thereof as remains after the discharge of any claims, as follows:

Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased in *India*, if any;

Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out in *India*, but if representation is taken out there, such Paymaster or other officer or person shall pay the amount over to the representative in *India*;

(*a*) See Act XXIV of 1867.

Where the amount does not exceed one hundred pounds, and representation in *India* is not taken out, such Paymaster or other officer or person shall dispose of the amount, or part thereof, in *India*, (in such manner as may be prescribed by royal warrant for such cases), for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being in *India*:

(5). Subject to the foregoing provisions, such Paymaster or other officer or person shall, at the expiration of such time, not exceeding in any case six months, as may be prescribed by royal warrant, remit the surplus, or so much thereof as remains in his hands after discharging any claims, from *India* to *England*, as follows,—

In the cases of officers of Her Majesty's army constituting the Staff Corps of the three Presidencies, and in the cases of officers and *European* soldiers of Her Majesty's *Indian* army, to the Secretary of State for *India* in Council,—

In other cases, to the Secretary of State for War.

Disposal of Residue by Secretary of State.

On receipt of surplus at War or India office, notices to be published in London Gazette, &c. as to amount to credit of deceased, and other particulars.

XIII. The Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, on receiving any such surplus or part of a surplus as is hereinbefore directed to be remitted, shall cause an account to be made up, as soon as may be, of the total amount to the credit of the deceased, including the amount of the surplus or part of a surplus so remitted, together with all arrears of pay, batta, grants, and other allowances in the nature thereof, and thereupon shall cause to be published, as soon as conveniently may be, in the *London Gazette*, and also in any newspaper or otherwise as may seem fit, a notice stating the total amount to the credit of the deceased as aforesaid, hereinafter called the residue, and such other particulars respecting the deceased and his property as may seem fit, together with a notice stating the mode in which any application respecting the residue is to be made to the Secretary of State for War, or to the Secretary of State for *India* in Council, as the case may be.

Residue exceeding £100 to be paid to representative of deceased.

XIV. Where the residue exceeds one hundred pounds, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall dispose of the residue by paying it over to the representative of the deceased.

Residue not exceeding £100 to be paid to representative, if any.

XV. Where the residue does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out, but in any case the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, require representation to be taken out; and if, on that requisition or otherwise, representation is taken out, then he shall dispose of the residue by paying it over to the representative.

Where residue does not exceed £100, and no representation, War or India office empowered to pay it over for benefit of widow, &c., or to invest it for benefit of children, &c.

XVI. Where the residue does not exceed one hundred pounds and representation is not taken out, then, after the expiration from the first publication of the required notice in the *London Gazette*, of three months in the case of an officer, and of one month in the case of a soldier, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall dispose of the residue as follows:—

(1). He shall, if he thinks fit, pay the residue over to any person showing herself or himself, to the satisfaction of the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to take out representation to the deceased,—to the end that the residue may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be so applied accordingly (for which application the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may require such security as seems fit):

(2). Or else, where the deceased leaves any child or near relative him surviving, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall retain the residue in his hands on behalf of such child or near relative, and shall invest the residue, or any part thereof, in such manner as may be prescribed by royal warrant, and shall apply the sums invested, and the income thereof, or any part thereof respectively, from time to time, for the maintenance, education, or advancement, or otherwise for the benefit, of such child or near relative, in such manner as may seem fit, subject to such regulations as may be laid down by royal warrant.

Debts.

Provision in last-mentioned case for payment of debts out of residue.

XVII. Notwithstanding anything hereinbefore contained, where the residue does not exceed one hundred pounds, and representation to the deceased is not taken out, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall, before disposing of the residue or any part thereof, in manner aforesaid,—or after so disposing of the residue or any part thereof, if and so far as the disposition thereof is capable of revocation,—apply the residue, or so much as may be requisite, in or towards payment of any debt of the deceased of which he has notice, subject to the following conditions:

First.—That the debt accrued due within three years before the death:

Second.—That payment of it is claimed within two years after the death:

Third.—That the claimant proves the debt to the satisfaction of the Secretary of State for War, or of the Secretary of State for *India* in Council, as the case may be.

Any person claiming to be a creditor of the deceased shall not be entitled to obtain payment of his debt out of any money that may, under this Act, be in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, by any means or proceedings whatever except by means of a claim lodged with such Secretary of State, and proceedings thereon, under and according to this Act.

Nothing in the present Section shall prejudicially affect the claim of any creditor in respect of a debt incurred before the commencement of this part of this Act.

Undisposed of Residues.

Residues undisposed of for six years to be applied towards compassionate fund.

XVIII. If in any case the residue or any part thereof remains, for one year after the first publication of the required notice in the *London Gazette*, in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, as the case may be, undisposed of or unappropriated, then as soon as conveniently may be after the end of that year the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall cause to be published in the *London Gazette* a notice similar to the original required notice, *mutatis mutandis*, and so for six successive years from the publication of the original notice; and if in any case the residue, or any part thereof, remains in the hands of the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, undisposed of or unappropriated for six months after the publication of the last of such required notices in the *London Gazette*, then at the expiration of the said six months he shall apply the same, together with any income or accumulations of income accrued therefrom, in such manner in or towards the creation or maintenance of such compassionate or other fund for the benefit of widows and children or other near relatives of soldiers dying on service, as may be prescribed by royal warrant.

Provided, that the application under the present Section of any residue, or part of a residue, undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

Medals and Decorations.

Medals and decorations excepted;

XIX. Medals and decorations belonging to an officer or soldier dying on service shall not be considered to be comprised in the personal estate of the deceased with reference to the claims of creditors or for any of the purposes of administration under this Act or otherwise; and, notwithstanding anything in this or any other Act contained, the same, when secured by the Committee of Adjustment, shall be held and disposed of according to regulations laid down by royal warrant.

to be disposed of according to royal warrant.

Exception as to Regimental Paymasters.

Special provision for case of death of regimental Paymaster.

XX. The case of a regimental Paymaster dying on service shall, notwithstanding anything hereinbefore contained, be provided for as follows:—

(1.) That case shall be deemed wholly excepted out of the foregoing provisions of this Act, save so far as they define and give preference to and regulate the

payment of and provide for decisions respecting preferential charges, and as they relate to the duties and powers of the Committee of Adjustment, and to medals and decorations:

(2.) The duties and powers of the Committee of Adjustment in relation to the property shall, nevertheless, in the case of a regimental Paymaster, be deemed to arise in full, immediately and unconditionally on the death, and to continue notwithstanding the payment of the preferential charges by any person:

(3.) Money in the possession or under the control of a regimental Paymaster at his death shall not be considered to be comprised in his effects for the purposes of this Act:

(4.) The surplus in the hands of the Committee of Adjustment shall, in the case of a regimental Paymaster, be dealt with by them as may be prescribed by royal warrant, and not according to the foregoing provisions of this Act.

Administrators General and other official administrators.

Restriction on interposition of official administrators.

XXI. An Administrator General for a Presidency in *India*, or a Registrar of any Court in *India* or in any of Her Majesty's colonies or possessions abroad, or any other official administrator, notwithstanding any law regulating his office independently of this Act, shall not interpose in any manner in relation to any property of an officer or soldier dying on service, except in the cases expressly provided for in this Act, or unless expressly required to do so by a Committee of Adjustment, or some other officers or persons, acting under this Act.

Duties of administrators.

Where, under this Act, any property comes to the hands of any such Administrator General, Registrar, or other official administrator, he shall administer the same in accordance with the provisions of this Act relating to preferential charges, and the other provisions of this Act, and, subject thereto, according to the law regulating his office independently of this Act.

Where any money coming, under this Act, to the hands of any such Administrator General remains in his hands after discharge of all debts and liabilities, he shall remit the same to the Secretary of State for *India* in Council at such time and in such manner as he directs, to be retained or to be paid over to the Secretary of State for War, as the case may require, and to be disposed of, according to the provisions of this Act, as the residue or part of the residue of the property of the deceased.

An Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an officer or soldier dying on service, exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be.

Miscellaneous.

Money remitted not to be assets in place where remitted to.

XXII. Any property of an officer or soldier dying on service, coming, under this Act, to the hands of any Paymaster or other officer or person, shall not, by reason of so coming, be deemed assets or effects at the place in which that Paymaster or other officer or person is stationed or resides, and it shall not be necessary by reason thereof that representation should be taken out in respect of that property for that place.

Where, under this Act, any such property is to be paid or delivered over to the representative of a deceased officer or soldier or other person entitled to receive the same,—

if such payment or delivery is to be made in *India*, then the Military Secretary to the Government of the Presidency in which the deceased was quartered,—

and if such payment is to be made elsewhere than in *India*, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be,—

may order that such property be transmitted to any other place where the same can be more conveniently paid or delivered over as aforesaid; and the obedience to any such order by any Paymaster or other officer or person in whose hands such property is, shall be a sufficient discharge to him, and he shall not be liable in any manner by reason of such property having been in his hands and having been transmitted under any such order.

Deduction of arrears of subscription to military and orphan funds.

XXIII. Nothing in this Act shall be deemed to prevent the Secretary of State for *India* in Council, on the death of an officer of Her Majesty's *Indian* army, from deducting in the Pay office from any arrear of pay due to the deceased the amount of any arrears of subscription due by the deceased to the military and orphan funds, or either of them.

Exemptions from duty.

XXIV. The personal estate of an officer or soldier dying on service in *India*, not exceeding one hundred pounds after payment of preferential charges, and administered and disposed of under this Act without representation being taken out, shall not be liable to the payment of any duty either in *India* or in the United Kingdom; but this provision shall not affect any exemption from duty existing independently hereof.

Creditor administering not entitled to claim property.

XXV. A creditor, as such, shall not be deemed a person entitled to take out representation to the deceased within the meaning of this Part of this Act; nor shall a creditor taking out representation as such be entitled by virtue of such representation to claim from the Secretary of State for War, or the Secretary of State for *India* in Council, any part of the property of the deceased.

Deposit in Court of probate, &c. of original Wills in hands of Secretary of State and declarations of intestacy.

XXVI. Where any original Will of an officer or soldier dying on service comes to the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, and representation under the same is not taken out, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may cause the same to be deposited as follows:

Where the domicil of the testator was in *England*, or in *India*, or in any of Her Majesty's colonies or possessions abroad, or in any foreign country, then in the

place for the time being appointed in *London* or *Middlesex* for the deposit of original Wills brought into the Court of probate:

Where the domicil of the testator was in *Ireland*, then in the place for the time being appointed in *Dublin* for the deposit of original Wills brought into the Court of probate:

Where the domicil of the testator was in *Scotland*, then in the office of the commissary clerk of the Commissary Court of the county of *Edinburgh*.

Where an officer or soldier dies on service intestate, and under this Act any residue of his property comes to the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, for disposal, and representation to the deceased is not taken out, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, cause a declaration of the intestacy of such officer or soldier to be deposited in the place or office where the original Will of such officer or soldier (if any) would be deposited as aforesaid.

In every such case the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may cause to be deposited together with such original Will or declaration of intestacy an inventory showing the personal property of the deceased, and the application thereof, as far as the same may be known.

Where the original Will of any officer or soldier who has, before the commencement of this Part of this Act, died on service is in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, he may, if it seems fit, at any time cause the same to be deposited in the place or office where the original Will of such officer or soldier would be deposited as aforesaid if he had died after the commencement of this Part of this Act.

Every such original Will, declaration of intestacy, and inventory shall be preserved and dealt with, and may be inspected, subject and according to any general or other rules or orders for regulating such preservation, dealing, and inspection, and for fixing any fees to be payable in respect thereof, as may be from time to time made in that behalf by the Court, Judge, or other authority empowered to make general or other rules or orders for like purposes in relation to other documents deposited in the same place or office.

Part II.—*Desertion and other Cases.*

On desertion, committee of officers to sell effects, and pay expenses.

XXVII. In every case of desertion, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, hereinafter called the Committee of Adjustment, shall immediately secure all such of the deserter's effects as—

Where the desertion occurs in the United Kingdom, are in camp or quarters; and

Where the desertion occurs out of the United Kingdom, are within the station, colony, or command;

and shall forthwith make an inventory thereof, and shall, within three months after the desertion, sell or convert into money such parts of the deserter's effects as do not consist of money, and thereout pay the expenses attending the execution of the provisions of the present Section.

Application of surplus.

XXVIII. The surplus remaining after such payment shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by the deserter as would, under Part I of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

The Committee of Adjustment shall apply the same accordingly, and then shall dispose of any property remaining in their hands according to regulations laid down by royal warrant.

Absence without leave.

XXIX. For the purposes of this Part of this Act, absence without leave for twenty-one days shall be deemed included in the term desertion.

Act to apply to apprentices and felons.

XXX. The provisions of this Part of this Act shall apply, as nearly as may be, *mutatis mutandis*, in the case of a soldier delivered up as an apprentice, or convicted of felony.

PART III.—*Insanity.*

In case of insanity, committee of officers to secure effects.

XXXI. Where an officer or soldier is removed, put on half pay, or discharged, on the ground of insanity, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, hereinafter called the Committee of Adjustment, shall immediately secure all such of his effects as—

Where the insanity occurs during service in the United Kingdom, are in camp or quarters; and

Where the insanity occurs during service out of the United Kingdom, are within the station, colony, or command.

Liability of effects to be applied as for payment of preferential charges.

XXXII. The effects of such an officer or soldier shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by him as would, under Part I of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

If preferential charges not paid, power for committee to sell and apply proceeds.

XXXIII. If any person who would, if such officer or soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the Committee of Adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the removal, putting on half pay, or discharge, is known at the quarters where the effects are, the Committee of Adjustment may and shall sell or convert into money such parts of the effects as do not consist of money, and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid, and shall dispose of any property then remaining in their hands as may be prescribed by royal warrant, to the end that the same may be applied for the benefit of the officer or soldier to whom it belongs.

Power to War or India office to apply officer's half pay, in case of insanity, for his benefit.

XXXIV. Where an officer is put on half pay on the ground of insanity, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, pay to the person charged with the care and maintenance of such officer all or any part of his half pay, to be applied for his care and maintenance.

Part IV.—*General Provisions.*

Validity of payments, sales, &c., under this Act.

XXXV. Every payment or application of money, and every sale or other disposition of property, made by the Secretary of State for War, or by the Secretary of State for *India* in Council, or by any Committee of Adjustment, or by any Paymaster or other officer or person, in pursuance of this Act, or of any royal warrant for carrying this Act into effect, shall be good and valid as against all persons whomsoever; and every such Secretary of State, and every officer belonging to any such committee, and every such Paymaster, officer, or person as aforesaid, shall be, by virtue of this Act, absolutely discharged from all liability in respect of the money or other property so paid, applied, or disposed of.

Indemnity to officers and others acting under it.

Further regulations by royal warrant.

XXXVI. Her Majesty may from time to time, by warrant under the royal sign manual, do all such things as are hereinbefore directed or authorized to be done by royal warrant, and also prescribe such Regulations as may seem fit, for the better execution of any of the purposes of this Act.

Every royal warrant made under this Act shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament is then sitting, and if not, then within fourteen days after the commencement of the next sitting of Parliament.

Commencement of Act.

XXXVII. This Act shall, with respect to the making of any royal warrant under it, take effect from its passing, and in all other respects shall take effect from the time appointed for its commencement in the royal warrant first made under it.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
58 Geo. 3, c. 73	An Act for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in service, and the receipt of sums due to soldiers.	Sections one, two, and three.
6 Geo. 4, c 61	An Act to amend two Acts; of the fifty-eighth year of His late Majesty, for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in service, and the receipt of sums due to soldiers; and of the fourth year of His present Majesty, for punishing mutiny and desertion of officers and soldiers in the service of the East India Company.	The whole.
11 Geo. 4 & 1 Will. 4, c. 41.	An Act to make further regulations with respect to army pensioners.	Section five, except as to pension or prize money
20 & 21 Vic., c. 66... ...	An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the service.	Sections sixty-one to sixty-six, both inclusive.
26 & 27 Vic., c. 8	An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters.	Sections ninety-eight to one hundred and two, both inclusive.

26 & 27 VICTORIÆ, CAP. LXXIII.

AN ACT *to give further facilities to the holders of India Stock.*

[28*th July* 1863.]

(1.) [Short title.]
(2.) [Definition of terms.]
(3.) [Right to certificate of title to India stock.]
(4.) [Restriction as to trustees taking certificates of title.]
(5.) [General provisions as to certificates of title.]
(6.) [Reconversion of the certificate to stock.]
(7.) [Fees in respect of dealings with stock under this Act.]
(8.) [Remuneration to the Bank.]
(9.) [General regulations with respect to certificates of title.]
(10.) [Income Tax.]
(11.) [Unclaimed dividends.]

(12.) [Shares in India stock outstanding to cease to be transferable, &c.]
(13.) [Punishment of forgery.]
(14.) [Punishment of personation.]
(15.) [Punishment of engraving, &c.]
(16.) [As to the signature and countersignature of documents in the department of the Secretary of State for India.]

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26 & 27 VICTORIÆ, CAP. LXXVI.

An Act *to determine the time at which Letters Patent shall take effect in the colonies.*

[28*th July* 1863.]

Preamble.

Whereas Her Majesty hath from time to time caused to be made under the great seal of the United Kingdom of *Great Britain* and *Ireland* divers Letters Patent intended to take effect within Her Majesty's colonies and possessions beyond the seas: And whereas doubts are entertained respecting the period at which such Letters Patent have taken or may hereafter take effect within such colonies and possessions, and it is expedient that such doubts should be removed: Be it therefore enacted &c.

Existing Letters Patent not to take effect in colonies till published or acted on.

I. No such Letters Patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein: Provided that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such Letters Patent shall be as valid and effectual as if the same Letters Patent had taken effect at the date of the making thereof.

Acts done under such Letters Patent valid.

Future Letters Patent not to take effect in colony till publication.

II. No such Letters Patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such colony or possession until the making of the same shall have been signified therein by proclamation or other public notice.

Appointments by Letters Patent to be void unless published within six or nine months.

III. Any such Letters Patent by which any person may be hereafter appointed to any office or employment within any of such colonies or possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such colony, unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such colony or possession shall be to the eastward of *Bengal* in the *East Indies*, or to the west of *Cape Horn* in *South America*, or in any other case within six months after the making thereof.

9 & 10 Vic., c. 91 repealed.

IV. The Act, Chapter ninety-one, of the ninth and tenth years of Her Majesty, intituled an Act to continue certain Patent Commissions until the exhibition of the Commissions revoking them, is hereby repealed.

Period of Act coming into operation.

V. This Act shall take effect in each of Her Majesty's colonies and possessions so soon as the same shall be proclaimed therein by the officer administering the government thereof.

26 & 27 VICTORIÆ, CAP. CXXI.

An Act to establish the validity of acts performed in Her Majesty's possessions abroad by certain Clergymen ordained in foreign parts, and to extend the powers of colonial legislatures with respect to such Clergymen.

[28*th July* 1863.]

Preamble.

26 Geo. 3., c. 84.

Whereas by the third Section of an Act passed in the twenty-sixth year of His late Majesty King *George* the Third, Chapter eighty-four, intituled an Act to empower the Archbishop of *Canterbury* or the Archbishop of *York* for the time being to consecrate to the office of a Bishop persons being subjects or citizens of countries out of His Majesty's dominions, it was enacted that no person or persons admitted to the order of deacon or priest by any Bishop or Bishops so consecrated, or by the successor or successors of any Bishop or Bishops so consecrated, should be thereby enabled to exercise his or their respective office or offices within His Majesty's dominions: And whereas by an Act passed by the legislature of *Barbadoes* in the nineteenth and twentieth year of Her Majesty Queen *Victoria*, Chapter twenty, intituled an Act to enable the Reverend *Joseph Shepherd Mayers* to exercise his office as a Clergyman within this island, it was enacted, that it should be lawful for the said Reverend *Joseph Shepherd Mayers* to exercise the office of priest, and the said Reverend *Joseph Shepherd Mayers* hath from that time exercised the said office in the island of *Barbadoes*: And whereas it is apprehended that divers persons having been ordained by such Bishop or Bishops as aforesaid or their successors have at times exercised their respective offices in *British* colonies: And whereas doubts are entertained respecting the validity of the aforesaid Act passed by the legislature of *Barbadoes*, and of the marriages solemnized and other acts performed by the said Reverend *Joseph Shepherd Mayers* under authority of the said Act, or by other persons so ordained as aforesaid, and it is advisable to remove such doubts, and to define the power of colonial legislatures in this respect: Be it hereby enacted &c.

19 & 20 Vic., c. 20 (Barbadoes.)

Colonial legislatures may authorize exercise of clerical functions by persons ordained by Bishops consecrated under 26 Geo. 3., c. 84

I. It shall be lawful for the legislature of any of Her Majesty's possessions abroad, by any law or laws to be by them passed, to authorize any persons admitted to the order of priest or deacon by any of such Bishops as are mentioned in the first-recited Act to exercise their respective offices in such possession, anything in the aforesaid Act of Parliament to the contrary notwithstanding, and all laws heretofore passed by any such legislature for that purpose shall be and the same are hereby declared to be valid and effectual to all intents and purposes.

Acts heretofore performed by such persons to be valid.

II. All acts heretofore performed in any *British* colony by any person having been admitted to the office of priest or deacon by any of such Bishops as aforesaid or of their successors shall be as valid and effectual at law for all purposes whatever as if such person had been so admitted by a Bishop or Bishops of the United Church of *Great Britain* and *Ireland*.

27 & 28 VICTORIÆ, CAP. II.

AN ACT *to enable the Right Honorable Sir John Laird Mair Lawrence to receive the full benefit of the salary of Governor General of India, notwithstanding his being in receipt of an annuity granted to him by the East India Company.*

[18*th March* 1864.]

(1.) [Power to Secretary of State for India to pay to Sir J. L. M. Lawrence the full amount of salary as Governor General of India, in addition to annuity granted by East India Company].

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27 & 28 VICTORIÆ, CAP. XVI.

AN ACT *to confirm the appointment of Henry Pendock St. George Tucker Esquire as one of the Judges of Her Majesty's High Court at Bombay, and to establish the validity of certain proceedings therein.*

[13*th May* 1864.]

(1.) [Appointment confirmed.]
(2.) [All acts, &c. done by H. P. St. G. Tucker valid.]
(3.) [No action to be brought in consequence of such acts.]

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27 & 28 VICTORIÆ, CAP. XXV.

AN ACT *for regulating Naval Prize of War.*

[23*rd June* 1864.]

WHEREAS it is expedient to enact permanently, with amendments, such provisions concerning Naval Prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war: Be it therefore enacted &c. Preamble.

Preliminary.

I. This Act may be cited as The Naval Prize Act, 1864. Short title.

II. In this Act— Interpretation of terms.

The term "the Lords of the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral:

The term "the High Court of Admiralty" means the High Court of Admiralty of *England:*

The term "any of Her Majesty's Ships of War" includes any of Her Majesty's vessels of War, and any hired armed ship or vessel in Her Majesty's service:

The term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's Ships of War:

The term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat:

The term "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, cockets, letters, and other documents and writings delivered up or found on board a captured ship:

The term "goods" includes all such things as are by the course of Admiralty and Law of Nations the subject of adjudication as prize (other than ships).

I.—Prize Courts.

High Court of Admiralty and other Courts to be prize Courts for purposes of Act.

III. The High Court of Admiralty, and every Court of Admiralty or of Vice-Admiralty, or other Court exercising admiralty jurisdiction in Her Majesty's dominions, for the time being authorized to take cognizance of and judicially proceed in matters of prize, shall be a Prize Court within the meaning of this Act.

Every such Court, other than the High Court of Admiralty, is comprised in the term "Vice-Admiralty Prize Court," when hereafter used in this Act.

High Court of Admiralty.

Jurisdiction of High Court of Admiralty.

IV. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a Prize Court.

The High Court of Admiralty as a Prize Court shall have power to enforce any order or decree of a Vice-Admiralty Prize Court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal.

Appeal; Judicial Committee.

Appeal to Queen in Council, in what cases.

V. An appeal shall lie to Her Majesty in Council from any order or decree of a Prize Court, as of right in case of a final decree, and in other cases with the leave of the Court making the order or decree.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by order in Council, and in the absence of any such order, or so far as any such order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal.

Jurisdiction of Judicial Committee n prize appeals.

VI. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any Court of admiralty jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of appeal in prize causes.

VII. All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the Registrar of Her Majesty in prize appeals. Custody of processes, papers, &c.

VIII. In every such appeal the usual inhibition shall be extracted from the registry of Her Majesty in prize appeals within three months after the date of the order or decree appealed from if the appeal be from the High Court of Admiralty, and within six months after that date if it be from a Vice-Admiralty Prize Court. Limit of time for appeal.

The Judicial Committee may, nevertheless, on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

Vice-Admiralty Prize Courts.

IX. Every Vice-Admiralty Prize Court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in prize appeals and of the High Court of Admiralty in prize causes. Enforcement of orders of High Courts, &c.

X. Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court a salary not exceeding five hundred pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet. Salaries of Judges of Vice-Admiralty Prize Courts.

A Judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his Court.

An account of all such fees shall be kept by the Registrar of the Court, and the amount thereof shall be carried to and form part of the consolidated fund of the United Kingdom.

XI. In accordance, as far as circumstances admit, with the principles and regulations laid down in The Superannuation Act, 1859, Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament. Retiring pensions of Judges, as in 22 & 23 Vic., c. 26.

XII. The Registrar of every Vice-Admiralty Prize Court shall, on the first day of *January* and first day of *July* in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the Court since the last half-yearly return, and shall with all convenient speed send the same to the Registrar of the High Court of Admiralty, who shall keep the same in the registry of that Court, and who shall, as soon as conveniently may be, send a copy of the returns of each half-year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament. Returns from Vice-Admiralty Prize Courts.

General.

XIII. The Judicial Committee of the Privy Council, with the Judge of the High Court of Admiralty, may from time to time frame general orders for regulating (subject to the General orders for Prize Courts.

provisions of this Act) the procedure and practice of Prize Courts, and the duties and conduct of the officers thereof and of the practitioners therein, and for regulating the fees to be taken by the officers of the Courts, and the costs, charges, and expenses to be allowed to the practitioners therein.

Any such general orders shall have full effect, if and when approved by Her Majesty in Council, but not sooner or otherwise.

Every order in Council made under this Section shall be laid before both Houses of Parliament.

Every such order in Council shall be kept exhibited in a conspicuous place in each Court to which it relates.

Prohibition of officer of Prize Court acting as proctor, &c.

XIV. It shall not be lawful for any Registrar, Marshal, or other officer of any Prize Court, or for the Registrar of Her Majesty in prize appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent, or otherwise, in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the Court or of the Judicial Committee (as the case may require).

Prohibition of proctors being concerned for adverse parties in a cause.

XV. It shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters, by order of the Court or of the Judicial Committee (as the case may require).

II.—Procedure in Prize Causes.

Proceedings by Captors.

Custody of prize ship.

XVI. Every ship taken as prize, and brought into port within the jurisdiction of a Prize Court, shall forthwith, and without bulk broken, be delivered up to the Marshal of the Court.

If there is no such Marshal, then the ship shall be in like manner delivered up to the principal officer of Customs at the port.

The ship shall remain in the custody of the Marshal, or of such officer, subject to the orders of the Court.

Bringing in of ship papers.

XVII. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the Court.

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the Court for the absence or altered condition of the ship papers or any of them.

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, shall make oath to that effect.

Issue of monition.

XVIII. As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned.

Examinations on standing interrogatories.

XIX. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the Judge of the Court or some person authorized in this behalf, by whom they shall be examined on oath on the standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof.

Adjudication by Court.

XX. After the return of the monition, the Court shall, on production of the preparatory examinations and ship papers, proceed with all convenient speed either to condemn or to release the captured ship.

Further proof.

XXI. Where, on production of the preparatory examinations and ship papers, it appears to the Court doubtful whether the captured ship is good prize or not, the Court may direct further proof to be adduced, either by affidavit or by examination of witnesses, with or without pleadings, or by production of further documents; and on such further proof being adduced the Court shall with all convenient speed proceed to adjudication.

Custody, &c., of ships of war.

XXII. The foregoing provisions, as far as they relate to the custody of the ship, and to examination on the standing interrogatories, shall not apply to ships of war taken as prize.

Claim.

Entry of claim; security for costs.

XXIII. At any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the Court a claim, verified on oath.

Within five days after entering the claim, the claimant shall give security for costs in the sum of sixty pounds; but the Court shall have power to enlarge the time for giving security, or to direct security to be given in a larger sum, if the circumstances appear to require it.

Appraisement.

Power to Court to direct appraisement.

XXIV. The Court may, if it thinks fit, at any time direct that the captured ship be appraised.

Every appraisement shall be made by competent persons sworn to make the same according to the best of their skill and knowledge.

Delivery on Bail.

Power to Court to direct delivery to claimant on bail.

XXV. After appraisement, the Court may, if it thinks fit, direct that the captured ship be delivered up to the claimant, on his giving security to the satisfaction of the Court to pay to the captors the appraised value thereof in case of condemnation.

Sale.

Power to Court to order sale.

XXVI. The Court may at any time, if it thinks fit, on account of the condition of the captured ship, or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised), and be sold.

Sale on condemnation.

XXVII. On or after condemnation the Court may, if it thinks fit, order that the ship be appraised as aforesaid (if not already appraised), and be sold.

How sales to be made.

XXVIII. Every sale shall be made by or under the superintendence of the Marshal of the Court or of the officer having the custody of the captured ship.

Payment of proceeds to Paymaster General or official accountant.

XXIX. The proceeds of any sale, made either before or after condemnation, and after condemnation the appraised value of the captured ship, in case she has been delivered up to a claimant on bail, shall be paid under an order of the Court either into the Bank of *England* to the credit of Her Majesty's Paymaster General, or into the hands of an official accountant (belonging to the Commissariat or some other Department) appointed for this purpose by the Commissioners of Her Majesty's treasury or by the Lords of the Admiralty, subject in either case to such regulations as may from time to time be made, by order in council, as to the custody and disposal of money so paid.

Small armed Ships.

One adjudication as to several small ships.

XXX. The captors may include in one adjudication any number, not exceeding six, of armed ships not exceeding one hundred tons each, taken within three months next before institution of proceedings.

Goods.

Application of foregoing provisions to prize goods.

XXXI. The foregoing provisions relating to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize on board ship; and the Court may direct such goods to be unladen, inventoried, and warehoused.

Monition to Captors to proceed.

Power to Court to call on captors to proceed to adjudication.

XXXII. If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant, issue against the captors, returnable within six days from the service thereof, citing them to appear and proceed to adjudication; and on the return thereof the Court shall either forthwith proceed to adjudication or direct further proof to be adduced as aforesaid, and then proceed to adjudication.

Claim on Appeal.

Person intervening on appeal to enter claim.

XXXIII. Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs.

III.—Special Cases of Capture.

Land Expeditions.

Jurisdiction of Prize Court in case of capture in land expedition.

XXXIV. Where, in an expedition of any of Her Majesty's naval or naval and military forces against a fortress or possession on land, goods belonging to the State of the enemy or to a public trading Company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a Prize Court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize.

Conjunct Capture with Ally.

Jurisdiction of Prize Court in case of expedition with ally.

XXXV. Where any ship or goods is or are taken by any of Her Majesty's naval or naval and military forces while acting in conjunction with any forces of any of Her Majesty's allies, a Prize Court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

Joint Capture.

Restriction on petitions by asserted joint captors.

XXXVI. Before condemnation, a petition on behalf of asserted joint captors shall not (except by special leave of the Court) be admitted, unless and until they give security to the satisfaction of the Court to contribute to the actual captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize.

After condemnation, such a petition shall not (except by special leave of the Court) be admitted unless and until the asserted joint captors pay to the actual captors a just proportion of the costs, charges, and expenses incurred by the actual captors in the case, and give such security as aforesaid, and show sufficient cause to the Court why their petition was not presented before condemnation.

Provided, that nothing in the present Section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag.

Offences against Law of Prize.

In case of offence by captors, prize to be reserved for Crown.

XXXVII. A Prize Court, on proof of any offence against the Law of Nations, or against this Act, or any Act relating to naval discipline, or against any order in council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

Pre-emption.

Purchase by Admiralty for public service of stores on board foreign ships.

XXXVIII. Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a Prize Court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

Capture by Ship other than a Ship of War.

Prizes taken by ships other than ships of war to be droits of Admiralty.

XXXIX. Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in Her office of Admiralty.

IV.—Prize Salvage.

Salvage to re-captors of British ship or goods from enemy.

XL. Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a Prize Court to the owner, on his paying as prize salvage one-eighth part of the value of the prize to be decreed and ascertained by the Court, or such sum not exceeding one-eighth part of the estimated value of the prize as may be agreed on between the owner and the recaptors, and approved by order of the Court; provided, that where the recapture is made under circumstances of special difficulty or danger, the Prize Court may, if it thinks fit, award to the recaptors as prize salvage a larger part than one-eighth part, but not exceeding in any case one-fourth part, of the value of the prize.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.

Permission to recaptured ship to proceed on voyage.

XLI. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is retaken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the recaptors, prosecute her voyage, and it shall not be necessary for the recaptors to proceed to adjudication till her return to a port of the United Kingdom.

The master or owner, or his agent, may, with the consent of the recaptors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the recaptors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the Court may thereupon award prize salvage as afore-

said to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

V.—Prize Bounty.

Prize bounty to officers and crew present at engagement with an enemy.

XLII. If, in relation to any war, Her Majesty is pleased to declare, by proclamation or order in council, Her intention to grant prize bounty to the officers and crew of Her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as prize bounty a sum calculated at the rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

Ascertainment of amount of prize bounty by decree of Prize Court.

XLIII. The number of the persons so on board the enemy's ship shall be proved in a Prize Court, either by the examinations on oath of the survivors of them, or of any three or more of the survivors, or if there is no survivor by the papers of the enemy's ship, or by the examinations on oath of three or more of the officers and crew of Her Majesty's ship, or by such other evidence as may seem to the Court sufficient in the circumstances.

The Court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the prize bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the Court.

Payment of prize bounty awarded.

XLIV. On production of an official copy of the decree, the Commissioners of Her Majesty's treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any order in council may from time to time direct.

VI.—Miscellaneous Provisions.

Ransom.

Power for regulating ransom by order in council.

XLV. Her Majesty in Council may from time to time, in relation to any war, make such orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects, and taken as prize by any of Her Majesty's enemies.

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a Prize Court (subject to appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such order in council shall be deemed to have been entered into or given for an illegal consideration.

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods, in contravention of any such order in council, he shall for every such

offence be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her office of Admiralty, and on conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds.

Convoy.

Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy.

XLVI. If the master or other person having the command of any ship of any of Her Majesty's subjects, under the convoy of any of Her Majesty's ships of war, wilfully disobeys any lawful signal, instruction, or command of the Commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her office of Admiralty, and upon conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the Court may adjudge.

Customs Duties and Regulations.

Prize ships and goods liable to duties and forfeiture.

XLVII. All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description; and

All goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs, shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof for home use or exportation, unconditionally or subject to such conditions and regulations as they may direct.

Regulations of Customs to be observed as to prize ships and goods.

XLVIII. Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall, on arrival at such port, bring to a the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced, and every such ship shall be liable to such searches as other ships are liable to, and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's treasury.

Power for treasury to remit Customs duties in certain cases.

XLIX. Goods taken as prize may be sold either for home consumption or for exportation; and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commis-

sioners of Her Majesty's treasury may remit the whole or such part of the said duties as they see fit.

Perjury.

Punishment of persons guilty of perjury.

L. If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

Limitation of Actions, &c.

Actions against persons executing Act not to be brought without notice, &c.

LI. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may, by leave of the Court in which the action is brought, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action he shall not have costs against the defendant, unless the Judge before whom the trial is had certifies his approval of the action.

Any such action or proceeding against any person in Her Majesty's naval service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

Petitions of Right.

Jurisdiction of High Court of Admiralty on petitions of right in certain

LII. A petition of right, under the Petitions of Right Act, 1860, (*a*) may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject-matter of the petition or any material part thereof arises out of the exercise of any belligerent right

(*a*) 23 & 24 Vic., cap. 34.—*Ed.*

cases, as in 23 & 24 Vic., c. 34.

on behalf of the Crown, or would be cognizable in a Prize Court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Any petition of right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that Court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intituled or directed to be prosecuted in that Court; and, subject thereto, all the provisions of the Petitions of Right Act, 1860, shall apply, *mutatis mutandis*, in the case of any such petition of right; and for the purposes of the present Section the terms "Court" and "Judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the Judge thereof, and other terms shall have the respective meanings given to them in that Act.

Orders in Council.

Power to make orders in council.

LIII. Her Majesty in Council may from time to time make such orders in council as seem meet for the better execution of this Act.

Order in council to be gazetted, &c.

LIV. Every order in council under this Act shall be published in the *London Gazette*, and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within thirty days after the next meeting of Parliament.

Savings.

Not to affect rights of Crown; effect of treaties, &c.

LV. Nothing in this Act shall—

(1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown; or

(2) affect the operation of any existing treaty or convention with any foreign power; or

(3) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates; or

(4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of Her Crown, or in right of Her office of Admiralty, or any right or power

of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral; or

(5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a Prize Court to take cognizance of and judicially proceed upon any capture, seizure, prize, or reprisal of any ship or goods, and to hear and determine the same, and, according to the course of Admiralty and the Law of Nations, to adjudge and condemn any ship or goods, or any other jurisdiction or authority of or exerciseable by a Prize Court.

Commencement.

LVI. This Act shall commence on the commencement of the Naval Agency and Distribution Act, 1864. Commencement of Act.

27 & 28 VICTORIÆ, CAP. L.

An Act *to amend an Act of the twenty-fifth year of the reign of Her present Majesty, to provide for the registration and transfer of Indian stocks at the Bank of Ireland, and for the mutual transfer of such stocks from and to the Banks of England and Ireland respectively.*

[25*th July* 1864.]

(1). [Assignments and transfers of India stock in the Bank of Ireland valid, although not accepted in writing.]

27 & 28 VICTORIÆ, CAP. LI.

An Act *to vest the site of the India Office in Her Majesty for the service of the Government of India.*

[25*th July* 1864.]

(1). [On payment of 53,544*l*. 19*s*. 9*d*. by Secretary of State of India, the land described in schedule to become vested in Her Majesty, &c.]

(2). [The land, when so vested, to continue liable to the payment of a portion of rates and taxes.]

(3). [Nothing to be built on the great quadrangle.]

28 VICTORIÆ, CAP. XV.

An Act *to extend the term for granting fresh Letters Patent for the High Courts in India, and to make further provision respecting the territorial jurisdiction of the said Courts.*

[7*th April* 1865.]

Whereas it is expedient to extend the time fixed for granting fresh Letters Patent for the High Courts in *India* under the provisions of an Act passed in the twenty-fourth Preamble. 24 & 25 Vic., c. 104

and twenty-fifth years of the reign of Her present Majesty, intituled an Act for establishing High Courts of judicature in *India*, and to make further provision than is in the said Act contained for empowering the alteration from time to time of the local limits of the said High Courts, and for the exercise, in places beyond the limits of the Presidencies, or places within and for which such High Courts are established, of the jurisdiction and powers conferred by Her Majesty's Letters Patent on the said High Courts: Be it enacted &c.

Extension of time for granting fresh Letters Patent.

I. The time fixed for granting fresh Letters Patent for the High Courts in *India* by Section seventeen of the said recited Act is hereby extended to the first day of *January* one thousand eight hundred and sixty-six.

Sections 10 and 18 of 24 & 25 Vic., c. 104 repealed.

II. Sections ten and eighteen of the said Act of the twenty-fourth and twenty-fifth years of Her present Majesty are hereby repealed.

Power to the Governor General in Council to alter local limits of jurisdiction of High Courts.

III. It shall be lawful for the Governor General of *India* in Council, by order, from time to time to transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the High Courts established or to be established under the said Act, and to authorize and empower any High Court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's Letters Patent establishing the same, or any other Letters Patent issued by Her Majesty under the provisions of the above-recited Act of the twenty-fourth and twenty-fifth years of Her Majesty, within any such portions of Her Majesty's dominions in *India*, not included within the limits of the Presidency or place or places for which such High Court was established, as the said Governor General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of *India* in alliance with Her Majesty as the said Governor General in Council may, in manner aforesaid, from time to time determine, anything in the said recited Act of the twenty-fourth and twenty-fifth years of Her present Majesty notwithstanding.

Power to crown to disallow any order of the Governor General for that purpose.

IV. Whenever any such order has been passed by the Governor General in Council, he shall transmit to the Secretary of State for *India* an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such order; and such disallowance shall make void and annul such order from and after the day on which the Governor General shall make known by proclamation, or by signification to his Council, that he has received the notification of such disallowance by Her Majesty: Provided always, that all acts, proceedings, and judgments done, taken, or given by such High Courts, and not set aside by any competent authority before the promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding.

Time when Act shall come into operation.

V. So much of this Act as relates to the jurisdiction of the High Court shall commence and come into operation as soon as the same shall have been published by the Governor General in Council.

VI. Nothing in this Act contained shall interfere with the powers of the Governor General in Council at meetings for the purpose of making laws and regulations. Not to interfere with certain powers of Governor General.

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28 VICTORIÆ, CAP. XVII.

AN ACT *to enlarge the powers of the Governor General of India in Council at meetings for making laws and regulations, and to amend the law respecting the territorial limits of the several Presidencies and Lieutenant Governorships in India.*

[*9th May* 1865.]

WHEREAS by an Act passed in the Session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, Chapter sixty-seven, it was, among other things, enacted, that the Governor General of *India* in Council shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all persons, whether *British* or Native, foreigners or others, within the *Indian* territories under the dominion of Her Majesty, and for all servants of the Government of *India* within the dominions of Princes and States in alliance with Her Majesty: And whereas it is expedient to enlarge the said power by authorizing the Governor General of *India* in Council to make laws and regulations for all *British* subjects of Her Majesty within the dominions of such Princes and States: Be it enacted &c. Preamble. 24 & 25 Vic., c. 67.

I. The Governor General of *India* shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all *British* subjects of Her Majesty within the dominions of Princes and States in *India* in alliance with Her Majesty, whether in the service of the Government of *India* or otherwise. Power to Governor General to make laws for all British subjects, whether in service of Government of India or otherwise.

II. The preceding Section shall be read with and taken as part of Section twenty-two of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, Chapter sixty-seven. Preceding Section to be read as part of Section 22 of recited Act.

III. And whereas it is expedient to amend the law respecting the territorial limits of the several Presidencies and Lieutenant Governorships in *India*: Section eighteen of the Act of the sixteenth and seventeenth years of the reign of Her present Majesty, Chapter ninety-five, intituled an Act to provide for the Government of *India*, is hereby repealed. Section 18 of 16 & 17 Vic., c. 95 repealed.

IV. It shall be lawful for the Governor General of *India* in Council from time to time to declare and appoint, by proclamation, what part or parts of the *Indian* territories for the time being under the dominion of Her Majesty shall be or continue subject to each of the Presidencies and Lieutenant Governorships for the time being subsisting in such territories, and to make such distribution and arrangement, or new distribution and arrangement, of such territories into or among such Presidencies and Lieutenant Governorships as to the said Governor General in Council may seem expedient. Power to Governor General to appoint territorial limits of Presidencies, &c., by proclamation.

V. Provided always, that it shall be lawful for the Secretary of State in Council to signify to the said Governor General in Council his disallowance of any such proclama- Power to Secretary of State in Council to signify disallow-

ance of such proclamation.

tion: And provided further, that no such proclamation for the purpose of transferring an entire zillah or district from one Presidency to another, or from one Lieutenant Governorship to another, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

28 VICTORIÆ, CAP. XXXII.

AN ACT *to enable the Secretary of State in Council of India to acquire additional lands for improving the site of the India Office and the approaches thereto.*

[2*nd June* 1865.]

(1.) [Short title.]
(2.) [Power to Secretary of State in Council to purchase lands.]
(3.) [Lands purchased to vest in Her Majesty, &c.]
(4.) [Lands to continue subject to land tax and rates.]
(5.) [Power to enter on lands.]
(6.) [8 & 9 Vic., c. 18 and 28 & 24 Vic., c. 106 incorporated.]
(7.) [Extinction of rights-of-way and other easements.]
(8.) [Compensation in case of tenants-at-will, &c.]
(9.) [Powers for compulsory purchases limited.]
(10.) [Powers to Secretary of State in Council to execute works.]
(11.) [As to rights of Metropolitan Board of Works.]
(12.) [Exemption from Building Act.]
(13.) [Authentication of notices.]
(14.) [Orders concerning money paid into Court may be made at Chambers.]
(15.) [Penalty for obstructing the Secretary of State in Council.]
(16.) [Plan to be deposited in India office and to be open for inspection.]

28 & 29 VICTORIÆ, CAP. CXVI.

AN ACT *to explain the Foreign Jurisdiction Act.*

[5*th July* 1865.]

Be it declared and enacted &c.

Meaning of "British colony" in 6 & 7 Vic., c. 94.

I. In the Foreign Jurisdiction Act (that is to say, the Act of the Session of the sixth and seventh years of Her Majesty's reign, Chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual)," the term "*British* colony" includes and shall be construed to include any of Her Majesty's possessions out of the United Kingdom.

Short title.

II. This Act may be cited as The Foreign Jurisdiction Act Amendment Act, 1865.

[NOTE.—*Here follows the Act above referred to*:—]

6 & 7 VICTORIÆ, CAP. XCIV.

AN ACT *to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual.*

[*24th August* 1843.]

Preamble.

WHEREAS by treaty, capitulation, grant, usage, sufferance, and other lawful means Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's dominions: And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by and dependent on the laws and customs of this realm, and it is expedient that such doubts should be removed: Be it therefore enacted &c.

The power acquired by Her Majesty in countries out of Her dominions shall be held on the same terms as Her Majesty's authority in the crown colonies.

I. That it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

Acts done in pursuance of such power to be of the same effect as if done under local laws.

II. And be it enacted, that every act, matter, and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her Majesty, in any country or place out of Her Majesty's dominions, shall, in all Courts ecclesiastical and temporal and elsewhere within Her Majesty's dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

Courts authorized to procure evidence of such power by application to Secretary of State.

III. And be it enacted, that if in any suit or other proceedings, whether civil or criminal, in any Court ecclesiastical or temporal within Her Majesty's dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the Judge or Judges of such Court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid, or of the extent thereof, it shall be lawful for the Judge or Judges of any such Court, and he or they are hereby authorized, to transmit, under his or their hand and seal or hands and seals, to one of Her Majesty's principal Secretaries of State, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question as aforesaid; and such Secretary of State is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said Judge or Judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Power to send persons charged with crimes for trial to a British colony.

IV. And whereas it may in certain cases be expedient that crimes and offences committed within such countries or places as aforesaid should be inquired of, tried, determined, and punished within Her Majesty's dominions; be it enacted, that it shall and

may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offence the cognizance whereof may at any time appertain to any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any *British* colony (*a*) which Her Majesty may by any order or orders in council from time to time appoint in that behalf; and upon the arrival of such person within such colony it shall and may be lawful for the Supreme Court exercising criminal jurisdiction within the same to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to inquire of, try, and determine such crime or offence, and upon conviction of the person so charged as aforesaid to correct and punish him according to the laws in force in that behalf within such colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such Supreme Court: Provided always, that before any such person shall be sent for trial to any such colony as aforesaid it shall be lawful for him to tender for examination to the Judge, Magistrate, or other officer of Her Majesty to whom the cognizance of the crime or offence with which he is charged may appertain, within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said colony; and the said Judge, Magistrate, or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such Judge, Magistrate, or other officer, and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the Supreme Court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required, to allow so much of the evidence so taken as aforesaid as would have been admissible according to the law and practice of the said Supreme Court, had the said witness or witnesses been produced and examined at the trial before the said Court, to be read and received as legal evidence at such trial: Provided also, that if it shall be made to appear at such trial that the laws by which the person charged with any criminal act would have been tried had his trial taken place before a Judge, Magistrate, or other officer of Her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony, in respect either of the criminality of the act charged, or of the nature or degree of the alleged crime or offence, or of the punishment to be awarded for the same, such Supreme Court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as but not further or otherwise than the same relate to the criminality of such act, or to the nature or degree of such crime or offence, or to the punishment thereof: Provided also, that nothing herein contained shall be construed to alter or repeal any law, statute, or usage by virtue of which any crime or offence committed out of Her Majesty's dominions might, at the time of the passing of this Act, be inquired of, tried, determined, and punished within Her Majesty's dominions, or any part thereof, but

Before any such person shall be sent to any colony for trial, he may tender any material evidence that he would be unable to produce on trial, and which shall be taken down and transmitted.

In case the laws of the place in which the act was committed vary from those of the colony the Court may give effect o hem.

Nothing herein to alter any law respecting crimes committed out of Her Majesty's dominions.

(*a*) This includes British India, 28 & 29 Vic., c. 116.

the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

Power to send convicts for execution or imprisonment to a British colony.

V. And whereas it may likewise in certain cases be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offences within the same should be carried into effect within Her Majesty's dominions; be it enacted, that if any offender shall have been sentenced to suffer death or imprisonment for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any *British* colony (*a*) which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed upon such offender may be carried into effect within the same; and the Magistrates, gaolers, and other officers to whom it may appertain to give effect to any sentence passed by the Supreme Court exercising criminal jurisdiction within such colony are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such Supreme Court.

Power to transport convicts.

VI. And be it enacted, that if any offender shall have been ordered or sentenced to be transported beyond the seas by any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, or, having been adjudged to suffer death, shall have received Her Majesty's most gracious pardon upon condition of transportation beyond the seas, it shall be lawful for any person having authority derived from Her Majesty in that behalf to cause such offender to be sent to any place beyond seas to which convicts may at any time be lawfully transported from any part of Her Majesty's dominions, and, if there shall be no convenient means of transporting such offender without bringing him to *England*, to cause such offender to be brought to *England* in order to be transported, and to be imprisoned in any place of confinement provided under the authority of any law or statute relating to the transportation of offenders convicted in *England*, until such offender shall be transported or shall become entitled to his liberty; and as soon as any such offender shall have arrived at the place to which he may be transported, or, if brought to *England*, shall have been there imprisoned as aforesaid, all the provisions, rules, regulations, authorities, powers, penalties, matters, and things concerning the safe custody, confinement, treatment, and transportation of any offender convicted in *Great Britain* shall extend and be construed to extend to such offender as fully and effectually, to all intents and purposes, as if such offender had been convicted and sentenced at any Session of gaol delivery holden for any county in *England*.

Limitation of actions.

VII. And be it enacted, that if any suit or action shall be brought in any Court within Her Majesty's dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid or of this Act, then and in every such case such action or suit shall be commenced or prosecuted

(*a*) See Note, p cxxii.

within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the Court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any Justice of the Peace for acts done in the execution of his office by an Act passed in the twenty-
21 G. 2. c. 44 fourth year of the reign of King *George* the second, intituled an Act for the rendering Justices of the Peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to their warrants; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of any such power or jurisdiction of Her Majesty as aforesaid or of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

Repeal of Section 4 of 6 G. 4. c. 33 and of 6 & 7 W. 4. c. 78

VIII. And be it enacted, that from and after the first day of *October* in the year one thousand eight hundred and forty-four so much of an Act passed in the sixth year of His late Majesty King *George* the Fourth, intituled an Act to repeal certain Acts relating to the governor and company of merchants of *England* trading to the *Levant Seas*, and the duties payable to them; and to authorize the transfer and disposal of the possessions and property of the said governor and company for the public service, as provides, "that from and immediately after the enrolment of any such deed or instrument as therein mentioned all such rights and duties of jurisdiction and authority over His Majesty's subjects resorting to the ports of the *Levant*, for the purposes of trade or otherwise, as were lawfully exercised and performed, or which the Letters Patent or Acts by the said Act recited, or any of them, authorized to be exercised and performed, by any consul or other officers appointed by the said company, or which such consuls or other officers lawfully exercised and performed under and by virtue of any power or authority whatever, should, from and after the enrolment of such deed or instrument as aforesaid, be and become vested in and should be exercised and performed by such consuls and other officers respectively as His Majesty might be pleased to appoint for the protection of the trade of His Majesty's subjects in the ports and places respectively mentioned in

the said Letters Patent and Acts, or any or either of them;" and also that from and after the passing of this Act an Act passed in the Parliament holden in the sixth and seventh years of His said late Majesty King *William* the Fourth, intituled An Act to enable His Majesty to make regulations for the better defining and establishing the powers and jurisdiction of His Majesty's consuls in the *Ottoman* Empire, shall be and the same are hereby repealed, save as to any matter or thing theretofore done under the authority of the same respectively.

IX. And be it enacted, that this Act may be amended or repealed by any Act to be passed during this Session of Parliament. Act may be amended &c.

29 VICTORIÆ, CAP. XVIII.

An Act *to make provision for the transfer of the assets, liabilities, and management of the Bengal, Madras, and Bombay military funds, the Bengal military orphan society, and other funds, to the Secretary of State for India in Council.*

[30*th April* 1866.]

Whereas certain institutions known as the *Bengal* military fund, the *Bengal* military orphan society, the *Madras* military fund, and the *Bombay* military fund, were established in *India* at different times, under the authority of the Honourable *East India* Company, for the grant of certain benefits to the commissioned officers of the said Company's army who were subscribers to those institutions, and for the grant of pensions and other allowances to the widows and orphans of such officers, and those institutions were supported by donations and subscriptions from the officers of the said Company's army and by certain aids from the said Company: Preamble.

And whereas, by the Act of the twenty-first and twenty-second *Victoria*, Chapter one hundred and six, for the better government of *India*, it was amongst other things provided that the military and naval forces of the *East India* Company should be deemed to be the *Indian* military and naval forces of Her Majesty, and should be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company:

And whereas, in consequence of the changes subsequently made in the constitution of the *Indian* army, notice was given to the Government of *India* by the Secretary of State for *India* in Council that the said Secretary of State for *India* in Council was ready to assume the liabilities of the said institutions, so far as might be requisite to maintain existing pensions, and to secure to the subscribers and their families the benefits to which they were entitled therefrom, and also that, in the event of such assumption, present incumbents on and subscribers to the several funds should be guaranteed the pensions and allowances for themselves and their families to which they were entitled from those funds, according to the regulations then in force, and at the rates of subscription then existing:

And whereas, under instructions from the Secretary of State for *India* in Council, the Government of *India* caused the question whether, under the guarantee so given, the assets and liabilities of the said institutions should be made over by the directors and managers thereof to the Secretary of State for *India* in Council, to be submitted for the votes of the subscribers to those institutions, and the proposition so to make over the assets and liabilities of the said institutions was, in regard to each of the said institutions, carried in the affirmative by a large majority of votes:

And whereas, in order to avoid any doubt that may hereafter arise in regard to the legality of such transfer, it is necessary to make provision by law for enabling the directors and managers of the said institutions to transfer the assets, liabilities, and management thereof to the Secretary of State for *India* in Council, and for enabling the said Secretary of State for *India* in Council to accept the same:

Be it therefore enacted &c.

The Secretary of State for India in Council may take and assume the assets, &c. of certain pension funds in India.

I. It shall be lawful for the directors and managers of the said institutions to make over the assets, liabilities, and management thereof to the Secretary of State for *India* in Council, and for the Secretary of State for *India* in Council to take and assume the assets, liabilities, and management thereof.

Rights of incumbents and subscribers maintained.

II. As soon as the said assets, liabilities, and management shall be made over as aforesaid, and the acceptance thereof by the Secretary of State for *India* in Council notified by the Government of *India*, every person who shall be an incumbent on or subscriber to any of the said institutions at the date of such notification shall be entitled from time to time to receive from the revenues of *India* such allowance to himself, and his family shall be entitled to receive such pension or allowance after his decease, as he or they may be entitled to by the regulations of the said institutions: Provided that nothing in this Act contained shall be held to preclude the Secretary of State for *India* in Council from assigning to the incumbents on and subscribers to any of the said institutions, or to their families after their decease, any benefits in addition to those secured to them by this Act, if, on considering the assets and liabilities of the several institutions, he shall deem it reasonable so to do.

Power to take and assume the assets, &c. of certain other pension funds by consent of the subscribers thereto.

III. And whereas it may be expedient that the Secretary of State for *India* in Council should have authority in like manner to accept the transfer of the assets, liabilities, and management of other institutions, known as the *Bengal* medical retiring fund, the *Madras* medical fund, and the *Bombay* medical retiring fund, with the consent of the subscribers to the said institutions respectively: It shall be lawful for the managers or trustees to make over the assets, liabilities, and management of all or any of the said funds, and for the Secretary of State for *India* in Council to take and assume the same, if at any time hereafter it shall appear by a vote, specially taken for the purpose, that a majority of not less than three-fourths of the subscribers to those institutions who may vote upon the question are desirous of transferring them to the said Secretary of State for *India* in Council.

29 VICTORIÆ, CAP. XX.

An Act *to indemnify William Forsyth Esquire, one of Her Majesty's counsel, from any penal consequences which he may have incurred by sitting or voting as a member of the House of Commons while holding the office of standing counsel to the Secretary of State in Council of India.*

[30*th April* 1866.]

(1) [*Indemnification of William Forsyth.*]

(2) [*The general issue may be pleaded in any action or suit.*]

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29 & 30 VICTORIÆ, CAP. XLVII.

An Act *to legalize the payment and distribution of Indian prize-money by the treasurer or secretary of Chelsea Hospital, and to amend an Act for the consolidating and amending the law relating to the payment of army prize-money.*

[28*th June* 1866.]

Preamble. 2 & 3 W. 4, c. 53.

Whereas by the fourteenth Section of the Act of the second year of His late Majesty King *William* the Fourth, Chapter fifty-three, for consolidating and amending the laws relating to the payment of army prize-money, it is provided that all grants of money in the nature of prize "hereafter to be made by His Majesty, or by Parliament, or otherwise, to "the officers and troops of any division of the army employed upon or engaged in any "capture or expedition, shall, unless by the grant otherwise expressly directed, be received on behalf of the army by the treasurer of *Chelsea Hospital* or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under "the provisions of the said Act:"

And whereas sundry grants of money in the nature of prize have been from time to time made by Her Majesty to the Directors of the *East India* Company, and since the passing of the Act of the twenty-first and twenty-second years of Her Majesty, "for the better government of *India*," to the Secretary of State for *India* in Council, for distribution among the officers and troops of Her Majesty's army in respect of captures and expeditions in which such officers and troops have been engaged in *India*.

And whereas such portions of the sums of money so granted as aforesaid as may not have been claimed and distributed in *India* have been from time to time paid over and accounted for by the said Directors and Secretary of State in Council to the said treasurer as sums of money to be received on behalf of the army by the said treasurer or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under the provisions of the said recited Act, and the said treasurer hath received and dealt with the same accordingly:

And whereas doubts have been raised whether the said Directors and Secretary of State in Council had authority for paying over and accounting for such monies as afore-

said to the said treasurer, and whether the said treasurer or his deputy could legally receive and distribute the same under the terms and provisions of the said recited Act:

And whereas it is expedient that all such doubts should be removed, and that it should be declared that the said Directors and Secretary of State in Council had authority for paying over, and the said treasurer for receiving the same monies for distribution under the provisions of the said recited Act:

Be it enacted &c.

Receipt of treasurer or secretary of Chelsea Hospital for sums heretofore paid over as monies in nature of prize to be an effectual discharge.

I. The receipt of the treasurer or secretary of *Chelsea Hospital*, or his deputy, for all sums of money heretofore by the said Directors of the *East India* Company, or the Secretary of State for *India* in Council, or hereafter by the said Secretary of State, paid over and accounted for as portions of grants of money in the nature of prize, shall be a complete and effectual discharge to the said Directors or Secretary of State, as the case may be, paying the same, from all claims of officers and troops of Her Majesty's army having any right or title thereto, or to the distribution thereof, in respect of captures or expeditions in which such officers and troops have been engaged.

All such sums as aforesaid to be deemed to have been legally dealt with and distributed.

II. All such monies as have been so received by the said treasurer, secretary, or by his deputy from the said Directors of the late *East India* Company, or the Secretary of State for *India* in Council, shall be held and are hereby declared, so far as the same have been dealt with and distributed according to the provisions of the said Act, to have been legally dealt with and distributed, and so far as the same remain in the hands of the said treasurer, secretary, or his deputy, that the same are held and are hereby declared to be subject and liable to all the provisions and conditions of the said recited Act so far as the same are applicable to prize granted by Her Majesty to and to be received on behalf of the army by the said treasurer of *Chelsea Hospital* or his deputy.

Mode of distribution where grants hereafter made in nature of prize.

III. In all cases where grants of money in the nature of prize shall hereafter be made by Her Majesty, or by Parliament, or otherwise, to the Secretary of State for *India* in Council, for the benefit of officers and troops of Her Majesty's army in respect of captures and expeditions in which such officers and troops may have been engaged in *India*, such portions of the same as are distributable in the United Kingdom or elsewhere out of *India* shall be received by the said treasurer, secretary, or his deputy, to be distributed to the persons entitled thereunto, according to their respective proportions under the provisions of the said recited Act, and of this and of any other Act amending the same.

Interpretation.

IV. For the purpose of this Act the words "officers and troops of Her Majesty's army" shall not be held to include officers and soldiers of Her Majesty's *European* or Native *Indian* forces.

Signature of certificates in respect to out-pensioners of Chelsea Hospital.

V. Where under the recited Act any certificate or order in the form E, or in any other form, is required from any non-commissioned officer or soldier who shall be or shall have been an out-pensioner of *Chelsea Hospital*, the same may be signed by the staff offi-

cer of pensioners for the district in which the said non-commissioned officer or soldier shall reside in lieu of any other person or officer mentioned in the said Act.

In certain cases of payment on account of officers or soldiers deceased, probate or letters of administration need not be taken out.

VI. Where any officer, non-commissioned officer, or soldier entitled to prize-money shall have died before the payment or distribution thereof, then, if the sum to which the deceased was entitled does not exceed the sum mentioned in the Army Prize (Shares of Deceased) Act, 1864 (*a*), it shall not be necessary, for the purpose of making payment or distribution, that probate or letters of administration should be taken out; but in any case the said treasurer or secretary may, if he sees fit, require probate or letters of administration to be taken out, and if, on that requisition or otherwise, probate or letters of administration are taken out, then he shall pay the prize-money to the executor or administrator.

Payments in cases aforesaid how to be made.

VII. Where the prize to which the deceased was entitled does not exceed the sum last referred to, and probate or letters of administration are not taken out, then the said treasurer or secretary shall, if he thinks fit, pay over the same to any person showing herself or himself to the satisfaction of the said treasurer or secretary to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to the representation to the deceased, to the end that the said prize may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be applied accordingly, or else distribute the same according to the Statute of Distributions.

Where order for payment of prize-money liable to stamp-duty, same may be paid by receipt or draft stamps affixed.

VIII. Where under the Statutes at present in force an order for the payment of prize-money is liable to stamp-duty, the amount of such duty may be paid by receipt or draft stamps affixed to the said order, equal in the total amount thereof to the stamp-duty payable on an inland bill for a sum equal to that for which the order is given, and that no order for any sum less than forty shillings shall be liable to stamp-duty.

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29 & 30 VICTORIÆ, CAP. CXV.

An Act *to provide for the government of the "Straits' Settlements."*

[10*th August* 1866.]

Preamble.

Whereas the islands and territories known as the "Straits' Settlements," namely, *Prince of Wales' Island*, the island of *Singapore*, and the town and fort of *Malacca*, and their dependencies, were heretofore part of the territories in the possession and under the government of the *East India* Company, and became vested in Her Majesty as a part of *India* by virtue and subject to the provisions of the Act of the twenty-first and twenty-second year of Her Majesty, Chapter one hundred and six, intituled An Act for the better government of *India*: And whereas it is expedient that the said Settlements and their dependencies should cease to form part of *India*, and should be placed under the government of Her Majesty as part of the colonial possessions of the Crown: And whereas it may be hereafter expedient to include the colony of *Labuan* within the Government of the said Settlements: Be it enacted &c.

(*a*) 27 & 28 Vic., cap. 36.

Straits' Settlements shall cease to be part of India.

I. It shall be lawful for Her Majesty, by order to be by Her made with the advice of Her Privy Council, to declare that this Act shall come into operation at a time to be specified in such order in council, and at such time the said Settlements shall cease to be part of *India* for the purposes and within the meaning of the aforesaid Act, and it shall be further lawful for Her Majesty by any such order to make provision respecting the enforcement by or against the Government of the said Settlements of all or any of such debts, claims, and obligations as might if this Act had not passed, have been enforced by or against the Government of *India* in connexion with the administration of the said Settlements.

Power to Her Majesty in Council to make laws, constitute Courts, &c.

II. From and after the coming into operation of this Act, it shall be lawful for Her Majesty, by order or orders to be by Her from time to time made, with the advice of Her said Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such Courts and officers, and to make such provisions and regulations for the proceedings in such Courts, and for the administration of justice, and for the raising and expenditure of the public revenue, as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said Settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in anywise notwithstanding.

Power to Her Majesty to delegate Her powers and authorities to resident officers.

III. It shall be lawful for Her Majesty, from time to time, by any Letters Patent under the great seal of the United Kingdom, or by any instructions under Her Majesty's signet and sign manual accompanying and referred to in any such Letters Patent, to delegate to any three or more persons within the said Settlements, or within any part or dependency thereof, the powers and authorities so vested in Her Majesty in Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisoes, and limitations as by any such Letters Patent or instructions as aforesaid Her Majesty shall see fit to prescribe, and, subject as aforesaid, to empower such three or more persons to exercise in respect to the island of *Labuan* and its dependencies all or any of the powers and authorities hereinbefore vested in Her Majesty in respect to the said Settlements: Provided always, that, notwithstanding any such delegation or grant of authority as aforesaid, it shall still be competent to Her Majesty in Council in manner aforesaid to exercise all the powers and authorities, either by virtue of this Act or otherwise, vested in Her Majesty in Council.

Existing laws and officers preserved.

IV. Until otherwise provided by Her Majesty in Council, or by such three or more persons as aforesaid, all laws or regulations (except the aforesaid Act of Parliament) which, when this Act shall come into operation, shall be in force in the said Settlements and their dependencies, and all proceedings of any Court of justice had or to be had therein, shall be and continue to be of the same force and effect, and all judicial and other officers who, when this Act shall come into operation, shall be lawfully exercising their offices in the said Settlements and their dependencies, shall continue to have and exercise the same functions and authorities therein, as if this Act had not been passed.

30 VICTORIÆ, CAP. XIII.

AN ACT *for punishing mutiny and desertion, and for the better payment of the Army and their quarters (a).*

[12*th April* 1867.]

Preamble.

Number of men to consist of 139,163, including those employed at depôts of regiments serving in India, but exclusive of those actually serving in India.

WHEREAS the raising or keeping a standing army within the United Kingdom of *Great Britain* and *Ireland* in time of peace, unless it be with the consent of Parliament, is against law: And whereas it is adjudged necessary by Her Majesty and this present Parliament that a body of forces should be continued for the safety of the United Kingdom, the defence of the possessions of Her Majesty's Crown, and the preservation of the balance of power in *Europe*, and that the whole number of such forces should consist of one hundred and thirty-nine thousand one hundred and sixty-three men, including eight thousand nine hundred and eighty-three, all ranks, to be employed with the depôts in the United Kingdom of *Great Britain* and *Ireland* of regiments serving in Her Majesty's *Indian* possessions, but exclusive of the numbers actually serving within Her Majesty's *Indian* possessions: And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm by martial law, or in any other manner than by judgment of his peers, and according to the known and established laws of this realm; yet nevertheless it being requisite, for the retaining all the beforementioned forces in their duty, that an exact discipline be observed, and that soldiers who shall mutiny or stir up sedition, or shall desert Her Majesty's service, or be guilty of crimes and offences to the prejudice of good order and military discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow: Be it therefore enacted &c.

Articles of War made by Her Majesty to be judicially taken notice of, and copies printed by the Queen's printer to be transmitted to Judges, &c.

I. It shall be lawful for Her Majesty to make Articles of War for the better government of Her Majesty's army, which articles shall be judicially taken notice of by all Judges and in all Courts whatsoever; and copies of the same, printed by the Queen's printer, shall, as soon as may be after the same shall have been made and established by Her Majesty, be transmitted by Her Majesty's Secretary of State for the War Department to the Judges of Her Majesty's Superior Courts at *Westminster*, *Dublin*, and *Edinburgh* respectively, and also to the Governors of Her Majesty's dominions abroad: Provided that no person within the United Kingdom of *Great Britain* and *Ireland*, or within the *British Isles*, shall by such Articles of War be subject to suffer any punishment extending to life or limb, or to be kept in penal servitude, except for crimes which are by this Act expressly made liable to such punishments as aforesaid, or shall be subject, with reference to any crimes made punishable by this Act, to be punished in any manner which shall not accord with the provisions of this Act: Provided also, that nothing in this Act contained shall in any manner prejudice or affect any Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force, under the authority of the Government of *India*, respecting officers or soldiers or followers in Her Majesty's *Indian* army, being Natives of *India*; and on the trial of

(a) This Act remains in force in India till 1st January 1869. See Sec. 102, infra—*Ed*.

all offences committed by any such Native officer or soldier or follower, reference shall be had to the Articles of War framed by the Government of *India* for such Native officers, soldiers, or followers, and to the established usages of the service.

Persons subject to this Act.

II. All the provisions of this Act shall apply to all persons who are or shall be commissioned or in pay as an officer, or who are or shall be listed or in pay as a non-commissioned officer or soldier, and to all warrant officers, and to all persons employed on the recruiting service receiving pay, and all pensioners receiving allowances in respect of such service, and to persons who are or shall be hired to be employed in the royal artillery, royal engineers, and to master gunners, and to conductors of stores, and to the corps of royal military surveyors and draftsmen, and to all officers and persons who are or shall be serving on the commissariat staff, or soldiers in the commissariat staff corps, and to officers and soldiers serving in the military store department or in the military store staff corps, and to persons in the war department, who are or shall be serving with any part of Her Majesty's army at home or abroad, under the command of any commissioned officer, and (subject to and in accordance with the provisions of an Act passed in the sixth and seventh years of the reign of Her present Majesty, Chapter ninety-five,) to any out-pensioners of the royal hospital, *Chelsea*, who may be called out on duty in aid of the civil power, or for muster or inspection, or who having volunteered their services for that purpose shall be kept on duty in any fort, town, or garrison, and to all military store officers and other civil officers who are or shall be employed by or act under the Secretary of State for War at any of Her Majesty's establishments in the islands of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man*, and the islands thereto belonging, or at foreign stations; and all the provisions of this Act shall apply to all persons belonging to Her Majesty's *Indian* forces who are or shall be commissioned or in pay as officers, or who shall be listed or in pay as non-commissioned officers or soldiers, or who are or shall be serving or hired to be employed in the artillery or any of the trains of artillery; or as master gunners or gunners, or as conductors of stores, or who are or shall be serving in the department of engineers, or in the corps of sappers and miners, or pioneers, or as military surveyors or draftsmen, or in the ordnance or public works or commissariat departments, and to all store-keepers and other civil officers employed under the ordnance, and to all veterinary surgeons, medical store-keepers, apothecaries, hospital stewards, and others serving in the medical department of the said forces, and to all licensed suttlers, and all followers in or of any of the said forces; provided that nothing in this Act contained shall extend to affect any security which has been or shall be given by any military store officer, barrack master, or other officer, or their sureties, for the due performance of their respective offices, but that all such securities shall be and remain in full force and effect.

[*Section III applies the Act to the Channel Islands.*]

Colonial and foreign troops in Her Majesty's pay to be subject to provisions of this Act.

IV. All officers and soldiers of any troops mustered and in pay, which shall be raised and serving in any of Her Majesty's dominions abroad, or in places in possession of or occupied by Her Majesty's subjects under the command of any officer having any commission immediately from Her Majesty, shall be subject to the provisions of this

Act and of Her Majesty's Articles of War, in like manner as Her Majesty's other forces are; and if such officers and soldiers, having been made prisoners, be sent into *Great Britain* or *Ireland* although not allowed to serve therein, all the provisions of this Act in regard to billeting soldiers shall apply to such officers and soldiers.

[*Section V saves the militia, yeomanry and volunteers.*]

Power to constitute Courts-martial.

VI. For the purpose of bringing offenders against this Act and against the Articles of War to justice, Her Majesty may from time to time, in like manner as has been heretofore used, grant commissions under the royal sign manual for the holding of Courts-martial within the United Kingdom of *Great Britain* and *Ireland*, and may grant commissions or warrants under the said royal sign manual to the chief Governor or Governors of *Ireland*, the commander of the forces, or the person or persons commanding-in-chief, or commanding for the time being, any body of troops belonging to Her Majesty's army, as well within the United Kingdom of *Great Britain* and *Ireland* and the *British Isles* as in any of Her Majesty's garrisons and dominions or elsewhere beyond seas, for convening Courts-martial, and for authorizing any officer under their respective commands to convene Courts-martial, as occasion may require, for the trial of offences committed by any of the forces under the command of any such last-mentioned officer, whether the same shall have been committed before or after such officer shall have taken upon him such command: Provided that the officer so authorized be not below the degree of a field officer, except in detached situations beyond seas where a field officer is not in command, in which case a captain may be authorized to convene district or garrison Courts-martial: Every officer so authorized to convene Courts-martial may confirm the sentence of any Court-martial convened by him according to the terms of his warrant.

Place where offenders may be tried

VII. Any person subject to this Act who shall, in any part of Her Majesty's dominions or elsewhere, commit any of the offences for which he may be liable to be tried by Court-martial by virtue of this Act or of the Articles of War, may be tried and punished for the same in any part of Her Majesty's dominions or in any other place whereto he may have come or where he may be after the commission of the offence, as if the offence had been committed where such trial shall take place.

Powers of general Courts-martial.

VIII. Every general Court-martial convened within the United Kingdom or the *British Isles* shall consist of not less than thirteen commissioned officers, and shall have power to sentence any officer or soldier to suffer death, penal servitude, imprisonment, forfeiture of pay or pension, or any other punishment which shall accord with the usage of the service: No sentence of death by a Court-martial shall pass unless two-thirds at least of the officers present shall concur therein; no sentence of penal servitude shall be for a period of less than five years; and no sentence of imprisonment shall be for a period longer than two years.

[*Section IX relates to Courts-martial convened within the United Kingdom.*]

Powers of regimental or detachment Courts martial.

X. A regimental or detachment Court-martial shall consist of not less than five commissioned officers, unless it is found to be impracticable to assemble that number, in which case three shall be sufficient, and shall have power to sentence any soldier to corpo-

ral punishment, or to imprisonment, and to forfeiture of pay, in such manner as shall accord with the provisions of this Act.

Courts-martial on line of march or in troop ships, &c.

XI. In cases of mutiny, and insubordination accompanied with personal violence, or other offences committed on the line of march, or on board any transport ship, convict ship, merchant vessel, or troop ship, not in commission, the offender may be tried by a regimental or detachment Court-martial, and the sentence may be confirmed and carried into execution on the spot by the officer in the immediate command of the troops, provided that the sentence shall not exceed that which a regimental Court-martial is competent to award.

Powers of detachment general Courts-martial

XII. It shall be lawful for any officer commanding any detachment or portion of troops serving in any place beyond seas where it may be found impracticable to assemble a general Court-martial, upon complaint made to him of any offence committed against the property or person of any inhabitant of or resident in any country in which such troops are so serving, by any person serving with or belonging to Her Majesty's armies, being under the immediate command of any such officer, to convene a detachment general Court-martial, which shall consist of not less than three commissioned officers, for the purpose of trying any such person; and every such Court-martial shall have the same powers in regard to sentence upon offenders as are granted by this Act to general Courts-martial: Provided always, that no sentence of any such Court-martial shall be executed until the general commanding the army of which such detachment or portion forms part shall have approved and confirmed the same.

As to swearing and summoning of witnesses.

XIII. All general and other Courts-martial shall administer an oath to every witness or other person who shall be examined before such Court in any matter relating to any proceeding before the same; and every person, as well civil as military, who may be required to give or produce evidence before a Court-martial, shall, in the case of general Courts-martial, be summoned by the Judge Advocate General, or his deputy, or the person officiating as Judge Advocate, and in the case of all other Courts-martial by the president of the Court; and all persons so summoned and attending as witnesses before any Court-martial shall, during their necessary attendance in or on such Courts, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the Court out of which the writ or process issued by which such witness was arrested, or if such Court be not sitting, then by any Judge of the Superior Courts of *Westminster* or *Dublin*, or of the Court of Session in *Scotland*, or of the Courts of law in the *East* or *West Indies*, or elsewhere, according as the case shall require, upon its being made to appear to such Court or Judge, by any affidavit in a summary way, that such witness was arrested in going to or attending upon or returning from such Court-martial; and all witnesses so duly summoned as aforesaid who shall not attend on such Courts, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or not produce the documents under their power or control required to be produced by them, or to answer all such questions as the Court may legally demand of them, shall be liable to be attached in the Court of Queen's Bench in

London or *Dublin*, or in the Court of Session or Sheriff or Stewart Courts in *Scotland*, or in Courts of law in the *East* or *West Indies*, or in any of Her Majesty's colonies, garrisons, or dominions in *Europe*, or elsewhere respectively, upon complaint made, in like manner as if such witness, after having been duly summoned or subpœnaed, had neglected to attend upon a trial in any proceeding in the Court in which such complaint shall be made: Provided always, that nothing in this Act contained shall be construed to render an oath necessary in any case where by law a solemn affirmation may be made instead thereof: It shall be lawful for the president of any Court-martial to administer an oath to a shorthand writer to take down, according to the best of his power, the evidence to be given before the Court.

Oath to be administered to shorthand writer.

XIV. No officer or soldier who shall be acquitted or convicted of any offence shall be liable to be tried a second time by the same or any other Court-martial for the same offence; and no finding, opinion, or sentence given by any Court-martial, and signed by the president thereof, shall be revised more than once, nor shall any additional evidence in respect of any charge on which the prisoner then stands arraigned be received by the Court on any revision.

No second trial for the same offence, but revision may be allowed

XV. If any person subject to this Act shall at any time during the continuance of this Act begin, excite, cause, or join in any mutiny or sedition in any forces belonging to Her Majesty's army, or Her Majesty's royal marines, or shall not use his utmost endeavours to suppress the same, or shall conspire with any other person to cause a mutiny, or coming to the knowledge of any mutiny or intended mutiny shall not, without delay, give information thereof to his commanding officer; or shall hold correspondence with or give advice or intelligence to any rebel or enemy of Her Majesty, either by letters, messages, signs, or tokens, in any manner or way whatsoever; or shall treat or enter into any terms with such rebel or enemy without Her Majesty's license, or license of the general or chief commander; or shall misbehave himself before the enemy; or shall shamefully abandon or deliver up any garrison, fortress, post, or guard committed to his charge, or which he shall have been commanded to defend; or shall compel the governor or commanding officer of any garrison, fortress, or post to deliver up to the enemy or to abandon the same; or shall speak words or use any other means to induce such governor or commanding officer, or others, to misbehave before the enemy; or shamefully to abandon or deliver up any garrison, fortress, post, or guard committed to their respective charge, or which he or they shall be commanded to defend; or shall desert Her Majesty's service; or shall leave his post before being regularly relieved; or shall sleep on his post; or shall strike or shall use or offer any violence against his superior officer, being in the execution of his office, or shall disobey any lawful command of his superior officer; or who being confined in a military prison shall offer any violence against a visitor or other his superior military officer, being in the execution of his office; all and every person and persons so offending in any of the matters before mentioned, whether such offence be committed within this realm or in any other of Her Majesty's dominions, or in foreign parts, upon land or upon the sea, shall suffer death, or penal servitude, or such other punishment as by a Court-martial shall be awarded: Pro-

Crimes punishable with death.

vided always, that any non-commissioned officer or soldier attested for or in pay in any regiment or corps who shall, without having first obtained a regular discharge therefrom, enlist himself in any other regiment or corps, may be deemed to have deserted Her Majesty's service, and shall be liable to be punished accordingly.

Judgment of death may be commuted for penal servitude or other punishments.

XVI. In all cases where the punishment of death shall have been awarded by a general Court-martial or detachment general Court-martial it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the commanding officer having authority to confirm the sentence, instead of causing such sentence to be carried into execution, to order the offender to be kept in penal servitude for any term not less than five years, or to suffer such term of imprisonment, with or without hard labour, and with or without solitary confinement, as shall seem meet to Her Majesty, or to the officer commanding as aforesaid.

Embezzlement, &c. of stores punishable by penal servitude, or by fine, imprisonment, &c.

XVII. Any officer or soldier of Her Majesty's army, or any person employed in the War Department, or in any way concerned in the care or distribution of any money, provisions, forage, arms, clothing, ammunition, or other stores belonging to Her Majesty's army or for Her Majesty's use, who shall embezzle, fraudulently misapply, wilfully damage, steal, or receive the same, knowing them to have been stolen, or shall be concerned therein or connive thereat, may be tried for the same by a general Court-martial, and sentenced to be kept in penal servitude for any term not less than five years, or to suffer such punishment of fine, imprisonment, dismissal from Her Majesty's service, reduction to the ranks if a warrant or non-commissioned officer, as such Court shall think fit, according to the nature and degree of the offence; and every such offender shall, in addition to any other punishment, make good at his own expense the loss and damage sustained, and in every such case the Court is required to ascertain by evidence the amount of such loss or damage, and to declare by their sentence that such amount shall be made good by such offender; and the loss and damage so ascertained as aforesaid shall be a debt to Her Majesty, and may be recovered in any of Her Majesty's Courts at *Westminster* or in *Dublin*, or the Court of Exchequer in *Scotland*, or in any Court in Her Majesty's colonies, or in *India*, where the person sentenced by such Court-martial shall be resident, after the said judgment shall be confirmed and made known, or the offender, if he shall remain in the service, may be put under stoppages not exceeding one-half of his pay and allowances until the amount so ascertained shall be recovered.

[*Section XVIII relates only to the United Kingdom.*]

As to execution of sentences of penal servitude in the colonies, India, or elsewhere out of Her Majesty's dominions.

XIX. Whenever any sentence of penal servitude heretofore or hereafter passed upon any offender by any Court-martial holden in *India*, or in any other part of Her Majesty's foreign dominions, or elsewhere beyond the seas, is to be carried into execution for the term specified in such sentence or for any shorter term, or when sentence of death passed by any such Court-martial has been or shall as aforesaid be commuted to penal servitude, the same shall be notified by the officer commanding Her Majesty's forces at the presidency or station where the offender may come or be, or in his absence by the Adjutant General for the time being, to some Judge of one of the Supreme Courts of Judicature in *India*, or the Chief Justice, or some other Judge, as the case may be, in any part of

Her Majesty's foreign dominions, who shall make order for the penal servitude or intermediate custody of such offender; and upon any such order being made it shall be duly notified to the Governor of the presidency if in *India*, or to the Governor of the colony if in any of Her Majesty's colonies, or to the person who shall for the time being be exercising the office of governor of such presidency or colony, who, on receipt of such notification, shall cause such offender to be removed or sent to some other colony or place, or to undergo his sentence within the presidency or colony where the offender was so sentenced, or where he may come or be as aforesaid, in obedience to the directions for the removal and treatment of convicts which shall from time to time be transmitted from Her Majesty through one of Her principal Secretaries of State to such presidency or colony; and such offender shall according to such directions undergo the sentence of penal servitude which shall have been passed upon him either in the presidency or colony in which he has been so sentenced, or in the colony or place to which he has been so removed or sent, and whilst such sentence shall remain in force shall be liable to be imprisoned, and kept to hard labour, and otherwise dealt with under such sentence in the same manner as if he had been sentenced to be imprisoned with hard labour during the term of his penal servitude by the judgment of a Court of competent jurisdiction in such presidency or colony, or in the colony or place to which he has been so removed or sent respectively: And elsewhere out of Her Majesty's dominions, the officer commanding shall have power to make an order in writing for the penal servitude or intermediate custody of such offender; and such offender shall be liable by virtue of such order to be imprisoned and kept to hard labour and otherwise dealt with under the sentence of the Court in the same manner as if he had been sentenced to be imprisoned with hard labour during the term of his penal servitude by the judgment of a Court of competent jurisdiction in the place where he may be ordered to be kept in such intermediate custody, or in the place to which he may be removed for the purpose of undergoing his sentence of penal servitude. If any prisoner shall be brought to any place in the United Kingdom there to undergo any sentence of penal servitude which has been passed upon him by a Court-martial held elsewhere, and the Judge's or officer's order hereinbefore prescribed for his penal servitude and intermediate custody shall not be forthcoming, and the Judge Advocate General, upon application for that purpose, shall certify that it appears from the original proceedings of the Court-martial whereby the prisoner was tried that he has been duly sentenced to penal servitude, and that for anything that appears to the contrary thereon, such sentence is still in force against the said prisoner for the period to be stated in such certificate, then it shall be lawful for one of Her Majesty's principal Secretaries of State, upon consideration of such certificate, to direct, in writing under his hand, that the said prisoner shall be at once removed to a convict prison, and be imprisoned and kept to hard labour according to the sentence stated in such certificate, and thereupon the prisoner shall be removed to such convict prison, and shall be liable to be imprisoned and kept to hard labour, and be otherwise dealt with during the term of his sentence, as if he had been sentenced to a like term of penal servitude by a competent Court in the United Kingdom.

A sentence of penal servitude may be commuted for imprisonment, &c

XX. In any case where a sentence of penal servitude shall have been awarded by a general or detachment general Court-martial, it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the officer commanding in chief Her Majesty's forces there serving, instead of causing such sentence to be carried into execution, to order that the offender be imprisoned, with or without hard labour, and with or without solitary confinement, for such term not exceeding two years as shall seem meet to Her Majesty, or to the officers commanding as aforesaid.

Of forfeitures when combined with penal servitude.

XXI. Where an award of any forfeiture, or of deprivation of pay or of stoppages of pay, shall have been added to any sentence of penal servitude, it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the officer commanding in chief Her Majesty's forces there serving, in the event of the sentence being commuted for imprisonment, to order such award of forfeiture, deprivation of pay, or stoppages of pay to be enforced, mitigated, or remitted, as may be deemed expedient.

Courts-martial may sentence to corporal punishment for certain offences.

XXII. Any Court-martial may sentence any soldier to corporal punishment for mutiny, or for insubordination accompanied with personal violence; and, save as aforesaid and as hereinafter mentioned, no Court-martial shall have power to sentence any soldier to corporal punishment; provided, that any Court-martial may sentence any soldier to corporal punishment while on active service in the field, or on board any ship not in commission, for mutiny, insubordination, desertion, drunkenness on duty or on the line of march, disgraceful conduct, or any breach of the articles of war; and no sentence of corporal punishment shall exceed fifty lashes.

Power to inflict corporal punishment and imprisonment.

XXIII. It shall be lawful for any general, district, or garrison Court-martial, in addition to any sentence of corporal punishment, to award imprisonment, with or without hard labour, and with or without solitary confinement, such confinement not exceeding the periods prescribed by the articles of war.

Power to commute corporal punishment for imprisonment, &c.

XXIV. In all cases in which corporal punishment shall form the whole or part of the sentence awarded by any Court-martial, it shall be lawful for Her Majesty, or for the general or other officer authorized to confirm the sentences of Courts-martial, to commute such corporal punishment to imprisonment for any period not exceeding forty-two days, with or without hard labour, and with or without solitary confinement, or to mitigate such sentence, or instead of such sentence to award imprisonment for any period not exceeding twenty days, with or without hard labour, and with or without solitary confinement and corporal punishment, to be inflicted in the prison, not exceeding twenty-five lashes, and the solitary confinement hereinbefore mentioned shall in no case exceed seven days at a time, with intervals of not less than seven days between each period of such confinement.

Power to commute a sentence of cashiering.

XXV. It shall be lawful for Her Majesty in all cases whatsoever, instead of causing a sentence of cashiering to be put in execution, to order the offender to be reprimanded,

or, in addition thereto, to suffer such loss of army or regimental rank, or both, as may be deemed expedient.

Marking deserters or soldiers discharged with ignominy.

XXVI. On the first and on every subsequent conviction for desertion the Court-martial, in addition to any other punishment, may order the offender to be marked two inches below and one inch in rear of the nipple of the left breast with the letter D, such letter not to be less than an inch long, and to be marked upon the skin with some ink or gunpowder, or other preparation, so as to be clearly seen, and not liable to be obliterated; a Court-martial may, upon sentencing any offender to be discharged with ignominy, also sentence him to be marked on the right breast with the letters B C; and the confirming officer may order such sentence, both in respect of the discharge and of the marking, to be carried into effect.

Power of imprisonment by different kinds of Courts-martial.

XXVII. A general, garrison, or district Court-martial may sentence any soldier to imprisonment, with or without hard labour, and with or without solitary confinement, but such solitary confinement shall not exceed the periods prescribed by the articles of war; and any regimental or detachment Court-martial may sentence any soldier to imprisonment, with or without hard labour, for any period not exceeding forty-two days, and with or without solitary confinement not exceeding the periods prescribed by the articles of war.

As to imprisonment of offenders already under sentence.

XXVIII. Whenever sentence shall be passed by a Court-martial on an offender already under sentence either of imprisonment or of penal servitude, the Court may award a sentence of imprisonment or penal servitude for the offence for which he is under trial, to commence at the expiration of the imprisonment or penal servitude to which he shall have been so previously sentenced, although the aggregate of the terms of imprisonment or penal servitude respectively may exceed the term for which any of those punishments could be otherwise awarded.

Regulations as to military prisons.

XXIX. It shall be lawful for the Secretary of State for the War Department to set apart any buildings now erected or which may hereafter be erected, or any part or parts thereof, as military prisons, and to declare that any building or any two or more buildings shall be, and thenceforth such building or buildings shall be deemed and taken to be, a military prison; and every military prison which, under the provisions of any former Act of Parliament, has been or which shall be so as aforesaid set apart and declared, shall be deemed to be a public prison within the meaning of this Act; and all and every the powers and authorities with respect to county gaols or houses of correction which now are or which may hereafter be vested in any of Her Majesty's principal Secretaries of State shall, with respect to all such military prisons, belong to and may be exercised by the Secretary of State for the War Department; and it shall be lawful for the said Secretary of State from time to time to make, alter, and repeal rules and regulations for the government and superintendence of any such military prison, and of the governor, provost marshal, officers, and servants thereof, and of the offenders confined therein, which said rules and regulations so made as aforesaid shall remain and continue to be in force until the same are altered or repealed by Her Majesty's said Secretary of State

for War; and it shall be lawful for the said Secretary of State from time to time to appoint an inspector general and inspectors of military prisons, and a governor, or provost marshal, and all other necessary officers and servants for any such military prison, and, as occasion may arise, to remove the governor or provost marshal, officer or servant of any such military prison; and the general or other officer commanding any district or foreign station within which may be any such military prison, or such general or other officer, and such other person or persons as the said Secretary of State may from time to time appoint, shall be a visitor or visitors of such prisons; and the said Secretary of State may authorize any general officer commanding on a foreign station to appoint periodically visitors to any military prison within his command; and the said Secretary of State shall transmit to the visitor or visitors of every military prison established by his authority a copy of the rules and regulations which are to be observed and enforced, and the same shall accordingly be observed and enforced, within such prison; and every inspector, visitor, and governor of any such military prison shall, subject to such rules and regulations as may from time to time be made by the said Secretary of State, have and exercise in respect of such prison, and of the governor, officers, and servants thereof, and of the prisoners confined therein, all the powers and authorities, as well in respect of administering oaths as otherwise, which any inspector, visiting justice, or governor of a county gaol or house of correction may respectively exercise as such.

As to the custody of military offenders under sentence of Court-martial and in other cases.

XXX. Every governor, provost marshal, gaoler, or keeper of any public prison or of any gaol or house of correction in any part of Her Majesty's dominions shall receive into his custody any military offender under sentence of imprisonment by a Court-martial, upon delivery to him of an order in writing in that behalf from the general commanding in chief, or the adjutant general, or the officer who confirmed the proceedings of the Court, or the officer commanding the regiment or corps to which the offender belongs or is attached, which order shall specify the offence of which he shall have been convicted, and the sentence of the Court, and the period of imprisonment which he is to undergo, and the day and hour of the day on which he is to be released; and such governor, provost marshal, gaoler, or keeper shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the Court and during the time specified in the said order, or until he be discharged or delivered over to other custody before the expiration of that time under an order duly made for that purpose; and whenever troops are called out in aid of the civil power, or are stationed in billets, or are on the line of march, every governor, provost marshal, gaoler, or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement, shall receive into his custody any soldier for a period not exceeding seven days, upon delivery to him of an order in writing on that behalf from the officer commanding such troops.

As to the removal or discharge of prisoners in certain cases.

XXXI. In the case of a prisoner undergoing imprisonment under the sentence of a Court-martial in any public prison other than the military prisons set apart by the authority of this Act, or in any gaol or house of correction in any part of the United Kingdom, it shall be lawful for the general commanding in chief, or the adjutant general,

or the officer who confirmed the proceedings of the Court, or the officer commanding the district or garrison in which such prisoner may be, to give, as often as occasion may arise, an order in writing directing that the prisoner be discharged, or be delivered over to military custody, whether for the purpose of being removed to some other prison or place in the United Kingdom, there to undergo the remainder or any part of his sentence, or for the purpose of being brought before a Court-martial either as a witness or for trial; and in the case of a prisoner undergoing imprisonment or penal servitude under the sentence of a Court-martial in any public prison other than such military prison as aforesaid, or in any gaol or house of correction in any part of Her Majesty's dominions other than the United Kingdom, it shall be lawful for the general commanding in chief or the adjutant general of Her Majesty's forces in the case of any such prisoner, and for the Commander-in-Chief in *India* in the case of any prisoner so confined in any part of Her Majesty's *Indian* dominions, and for the general commanding in chief in any presidency in *India* in the case of a prisoner so therein confined, and for the officer commanding in chief or the officer who confirmed the proceedings of the Court at any foreign station in the case of a prisoner so there confined, to give as often as occasion may arise an order in writing directing that the prisoner be discharged or be delivered over to military custody, whether for the purpose of being removed to some other prison or place in any part of Her Majesty's dominions, there to undergo the remainder or any part of his sentence, or for the purpose of being brought before a Court-martial, either as a witness or for trial; and in the case of any prisoner who shall be removed by any such order from any such prison, gaol, or house of correction either within the United Kingdom or elsewhere to some other prison or place either in the United Kingdom or elsewhere, the officer who gave such order shall also give an order in writing directing the governor, provost marshal, gaoler, or keeper of such other prison or place to receive such prisoner into his custody, and specifying the offence of which such prisoner shall have been convicted, and the sentence of the Court, and the period of imprisonment which he is to undergo, and the day and the hour on which he is to be released; and such governor, provost marshal, gaoler, or keeper shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the Court, and during the time specified in the said order, or until he be duly discharged or delivered over to other custody before the expiration of that time under an order duly made for that purpose; and in the case of a prisoner undergoing imprisonment or penal servitude under the sentence of a Court-martial in any military prison in any part of Her Majesty's dominions, the Secretary of State for the War Department, or any person duly authorized by him in that behalf, shall have the like powers in regard to the discharge and delivery over of such prisoners to military custody as may be lawfully exercised by any of the military authorities above-mentioned in respect of any prisoners undergoing confinement as aforesaid in any public prison other than a military prison, or in any gaol or house of correction in any part of Her Majesty's dominions; and such prisoner in any of the cases hereinbefore mentioned shall accordingly, on the production of any such order as is hereinbefore mentioned, be discharged or delivered over, as the case may be: Provided always, that the time during which any prisoner under sentence of imprisonment by a Court-martial shall be detained

in such military custody under such order as aforesaid shall be reckoned as imprisonment under the sentence for whatever purpose such detention shall take place; and such prisoner may during such time, either when on board ship or otherwise, be subjected to such restraint as is necessary for his detention and removal.

Provision for subsistence of soldiers when imprisoned in common gaols

XXXII. The gaoler or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement in any part of Her Majesty's dominions shall diet and supply every soldier imprisoned therein under the sentence of a Court-martial or as a deserter with fuel and other necessaries according to the regulations of such place of confinement, and shall receive on account of every soldier, during the period of his imprisonment, in *Great Britain* and *Ireland* one shilling *per diem*, and in other parts of Her Majesty's dominions sixpence *per diem*, which the Secretary of State for the War Department shall cause to be issued out of the subsistence of such soldier, upon application in writing signed by any Justice within whose jurisdiction such place of confinement shall be locally situated, together with a copy of the order of commitment, and which sum of one shilling or of sixpence *per diem*, as the case may be, shall be carried to the credit of the fund from which the expense of such place of confinement is defrayed. In *India* the expenses incurred under the provisions of this Section shall be paid in the same manner as the other expenses of such prison, or as may be provided by the laws or regulations to be made in that behalf.

Expiration of imprisonment of soldiers in common gaols.

XXXIII. Every gaoler or keeper of any public prison, gaol, house of correction, or other place of confinement, to whom any notice shall have been given, or who shall have reason to know or believe, that any person in his custody for any offence, civil or military, is a soldier liable to serve Her Majesty on the expiration of his imprisonment, shall forthwith, or as soon as may be, give, if in *Great Britain* to the Secretary of State for the War Department, and if in *Ireland* to the general commanding Her Majesty's forces in *Ireland*, or if in *India* to the adjutant general of the army, or to the nearest military authority with whom it may be convenient to communicate, notice of the day and hour on which the imprisonment of such person will expire; and every such gaoler or keeper is hereby required to use his best endeavours to ascertain and report in all cases where practicable the particular regiment or corps, battalion of a regiment or battery of artillery, to which such soldier belongs, and also whether he belongs to the depôt or the head-quarters of his regiment; and in the event of his being a recruit who has not joined, that it may be so stated in his report, together with the name of the place where the man enlisted. In all cases where the soldier in custody is under sentence to be discharged from the service on the completion of his term of imprisonment, and the discharge document is in the hands of the gaoler, such gaoler shall not be required to make any report thereof to the Secretary of State for War, or to the military authorities hereinbefore referred to.

Apprehension of deserters in the United Kingdom.

XXXIV. Upon reasonable suspicion that a person is a deserter it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier in Her Majesty's service, or other person, to apprehend or cause to be apprehended

such suspected person, and forthwith to bring him or cause him to be brought before any Justice living in or near the place where he was so apprehended and acting for the county or borough wherein such place is situate, or for the county adjoining such first-mentioned county or such borough; and such Justice is hereby authorized and required to enquire whether such suspected person is a deserter, and from time to time to defer the said inquiry and to remand the said suspected person in the manner prescribed by an Act passed in the eleventh and twelfth years of the reign of Her present Majesty, Chapter forty-two, Section twenty-one, and subject to every provision therein contained; and if it shall appear to the satisfaction of such Justice by the testimony of one or more witnesses, taken upon oath, or by the confession of such suspected person, confirmed by some corroborative evidence upon oath or by the knowledge of such Justice, that such suspected person is a deserter, such Justice shall forthwith cause him to be conveyed in civil custody to the head-quarters or depôt of the regiment or corps to which he belongs, if stationed within a convenient and easily accessible distance from the place of commitment, or if not so stationed then to the nearest or most convenient public prison (other than a military prison set apart under the authority of this Act) or police station legally provided as a lock-up house for temporary confinement of persons taken into custody, whether such prison or police station be in the county or borough in which such suspected person was apprehended or in which he was committed, or not; or if the deserter has been apprehended by a party of soldiers of his own regiment or corps in charge of a commissioned officer, such Justice may deliver him up to such party, unless the officer shall deem it necessary to have the deserter committed to prison for safe custody; and such Justice shall transmit an account of the proceedings, in the form prescribed in the Schedule annexed to this Act, to the Secretary of State for the War Department, specifying therein whether such deserter was delivered to his regiment or corps, or to the party of his regiment or corps, in order to his being taken to the head-quarters or depôt of his regiment or corps, or whether such deserter was committed to prison, to the end that the person so committed may be removed by an order from the office of the said Secretary of State, and proceeded against according to law; and such Justice shall also send to the said Secretary of State a report stating the names of the persons by whom or by or through whose means the deserter was apprehended and secured; and the said Secretary of State shall transmit to such Justice an order for the payment to such persons of such sum not exceeding forty shillings as the said Secretary of State shall be satisfied they are entitled to according to the true intent and meaning of this Act; and for such information, commitment, and report as aforesaid the clerk of the said Justice shall be entitled to a fee of two shillings and no more; and every gaoler and other person into whose custody any person charged with desertion is committed shall immediately upon the receipt of the person so charged into his custody pay such fee of two shillings, and also upon the production of a receipt from the medical practitioner who, in the absence of a military medical officer, may have been required to examine such suspected person, a fee of two shillings and sixpence, and shall notify the fact to the Secretary of State for the War Department, and transmit also to the said Secretary of State a copy of the commitment, to the end that such Secretary of State

In Her Majesty's foreign dominions.

may order repayment of such fees; and when any such person shall be apprehended and committed as a deserter in any part of Her Majesty's foreign dominions, the Justice shall forthwith cause him to be conveyed to some public prison, if the regiment or corps to which he is suspected to belong shall not be in such part, or, if the regiment or corps be in such part, the Justice may deliver him into custody at the nearest military post if within reasonable distance, although the regiment to which such person is suspected to belong may not be stationed at such military post; and such Justice shall in every case transmit to the general or other officer commanding a descriptive return in the form prescribed in the Schedule to this Act annexed, to the end that such person may be removed by order of such officer, and proceeded against according to law; and such descriptive return purporting to be duly made and subscribed in accordance with the Act shall, in the absence of proof to the contrary, be deemed sufficient evidence of the facts and matters therein stated: Provided always, that any such person so committed as a deserter in any part of Her Majesty's dominions shall, subject to the provisions hereinafter contained, be liable to be transferred by order of the general or other officer commanding to serve in any regiment or corps or depôt nearest to the place where he shall have been apprehended, or to any other regiment or corps to which Her Majesty may deem it desirable that he should be transferred and shall also be liable after such transfer of service to be tried and punished as a deserter.

Transfer of deserters.

As to the temporary custody of deserters in gaols

XXXV. Every gaoler or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement in any part of Her Majesty's dominions, is hereby required to receive and confine therein every deserter who shall be delivered into his custody by any soldier or other person conveying such deserter under lawful authority, on production of the warrant of the Justice of the Peace on which such deserter shall have been taken, or some order from the office of the Secretary of State for the War Department, which order shall continue in force until the deserter shall have arrived at his destination; and such gaoler or keeper shall be entitled to one shilling for the safe custody of the said deserter while halted on the march, and to such subsistence for his maintenance as shall be directed by Her Majesty's regulations.

Desertion of recruits prior to joining their regiments or corps.

XXXVI. Any recruit for Her Majesty's army who, having been attested or received pay other than enlisting money, shall desert before joining the regiment or corps for which he has enlisted, shall, on being apprehended, and committed for such desertion by any Justice of the Peace upon the testimony of one or more witnesses upon oath, or upon his own confession, forfeit his personal bounty, and be liable to be transferred to any regiment or corps or depôt nearest to the place where he shall have been apprehended, or to any other regiment or corps to which Her Majesty may deem it more desirable that he should be transferred: Provided always, that such deserters thus transferred shall not be liable to other punishment for the offence, or to any other penalty except the forfeiture of their personal bounty.

Fraudulent confession of desertion

XXXVII. Any person who shall confess himself to be a deserter from Her Majesty's forces, or from the embodied militia, shall be liable to be taken before any two Justices of the

Peace acting for the county, district, city, burgh, or place where any such person shall at any time happen to be when he shall be brought before them, and on proof that any such confession as aforesaid was false shall by the said Justices be adjudged to be punished, if in *England* as a rogue and vagabond, and if elsewhere by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three calendar months; and if, when such person shall be brought before the said Justices, it shall be proved to their satisfaction that such confession has been made, but evidence of the truth or falsehood of such confession shall not at that time be forthcoming, such Justices within the United Kingdom are hereby required to remand such person in the manner hereinbefore mentioned, and to transmit a statement of the case to the Secretary of State for the War Department, with a request to be informed whether such person appears to belong or to have belonged to the regiment or corps from which he shall have so confessed himself to have deserted; and a letter from the War Office in reply thereto, referring to such statement, and purporting to be signed by or on behalf of the Secretary of State for the War Department, shall be admissible in evidence against such person, and shall be deemed to be legal evidence of the facts stated therein, and on the receipt thereof the said Justices shall forthwith proceed to adjudicate upon the case. In *India* the authority herein given to two Justices may be exercised by one *European* Justice or Magistrate.

Furlough in case of sickness.

XXXVIII. When there shall not be any military officer of rank not inferior to captain, or any adjutant of regular militia, within convenient distance of the place where any non-commissioned officer or soldier on furlough shall be detained by sickness or other casualty rendering necessary any extension of such furlough, it shall be lawful for any Justice who shall be satisfied of such necessity to grant an extension of furlough for a period not exceeding one month; and the said Justice shall by letter immediately certify such extension and the cause thereof to the commanding officer of the corps or detachment to which such non-commissioned officer or soldier belongs, if known, and if not then to the agent of the regiment or corps, in order that the proper sum may be remitted to such non-commissioned officer or soldier, who shall not during the period of such extension of furlough be liable to be treated as a deserter: Provided always, that nothing herein contained shall be construed to exempt any soldier from trial and punishment, according to the provisions of this Act, for any false representation made by him in that behalf to the said Justice, or for any breach of discipline committed by him in applying for and obtaining the said extension of furlough.

No person acquitted or convicted by the civil Magistrate or by a jury to be tried by a Court martial for the same offence.

XXXIX. No person subject to this Act, having been acquitted or convicted of any crime or offence by the civil Magistrate, or by the verdict of a jury, shall be liable to be again convicted for the same crime or offence by a Court-martial, or to be punished for the same otherwise than by cashiering in the case of a commissioned officer, or in the case of a warrant officer by reduction to an inferior class or to the rank of a private soldier by order of the Commander-in-Chief, or in the case of a non-commissioned officer by reduction to the ranks by order of the Commander-in-Chief or of the colonel, or in the militia by order of the appointed commandant of the regiment or corps; and whenever any officer or soldier shall have been tried by any Court of ordinary criminal jurisdiction,

the clerk of such Court or other officer having the custody of the records of such Court, or the deputy of such clerk, shall, if required by the officer commanding the regiment or corps to which such officer or soldier shall belong, transmit to him a certificate setting forth the offence of which the prisoner was convicted, together with the judgment of the Court thereon if such officer or soldier shall have been convicted, or of the acquittal of such officer or soldier, and shall be allowed for such certificate a fee of three shillings.

Soldiers liable to be taken out of Her Majesty's service only for felony, misdemeanor, or for debts amounting to 30*l.* and upwards

XL. Any person attested for Her Majesty's army, or serving on the permanent staff of the disembodied militia or volunteers other than as a commissioned officer, shall be liable to be taken out of Her Majesty's service only by process or execution on account of any charge of felony or of misdemeanor, or of any crime or offence other than the misdemeanor of absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting the same, or the misdemeanor of refusing to comply with an order of Justices for the payment of money, or on account of an original debt proved by affidavit of the plaintiff or of some one on his behalf to amount to the value of thirty pounds at the least, over and above all costs of suit, such affidavit to be sworn, without payment of any fee, before some Judge of the Court out of which process or execution shall issue, or before some person authorized to take affidavits in such Court, of which affidavit, when duly filed in such Court, a memorandum shall, without fee, be endorsed upon the back of such process, stating the facts sworn to, and the day of filing such affidavit; but no soldier or other person as aforesaid shall be liable by any process whatever to appear before any Justice of the Peace or other authority whatever, or to be taken out of Her Majesty's service by any writ, summons, warrant, order, judgment, execution, or any process whatsoever issued by or by the authority of any Court of law, or any Magistrate, Justice or Justices of the Peace, or any other authority whatsoever, for any original debt not amounting to thirty pounds, or for not supporting or maintaining, or for not having supported or maintained, or for leaving or having left chargeable to any parish, township, or place, or to the common fund of any union, any relation or child which such soldier or person might, if not in Her Majesty's service, be compellable by law to relieve or maintain, or for neglecting to pay to the mother of any bastard child, or to any person who may have been appointed to have the custody of such child, any sum to be paid in pursuance of an order on that behalf, or for the breach of any contract, covenant, agreement, or other engagement whatever by parol or in writing, or for having left or deserted his employer or master, or his contract, work, or labour, or misconducting himself respecting the same, except in the case of an apprentice, or of an indentured labourer, as hereinafter described; and all summonses, warrants, commitments, indictments, convictions, judgments, and sentences on account of any of the matters for which it is herein declared that a soldier or other person as aforesaid is not liable to be taken out of Her Majesty's service, shall be utterly illegal, and null and void, to all intents and purposes; and any Judge of any such Court may examine into any complaint made by a soldier or by his superior officer, and by warrant under his hand discharge such soldier, without fee, he being shown to have been arrested contrary to the intent of this Act, and shall award reasonable costs to such complainant, who shall have for the recovery thereof the like remedy as would have been applicable to

Soldiers not liable to be taken out of Her Majesty's service for debts under 30*l.* or for not maintaining their families, or for breach of contract.

the recovery of any costs which might have been awarded against the complainant in any judgment or execution as aforesaid, or a writ of Habeas corpus ad subjiciendum shall be awarded or issued, and the discharge of any such soldier out of custody shall be ordered thereupon; provided that any plaintiff, upon notice of the cause of action first given in writing to any soldier, or left at his last quarters, may proceed in any action or suit to judgment, and have execution other than against the body or military necessaries or equipments of such soldier; provided also, that nothing herein contained relating to the leaving or deserting a master or employer, or to the breach of any contract, agreement, or engagement, shall apply to persons who shall be really and *bonâ fide* apprentices, duly bound, under the age of twenty-one years, or to indentured labourers, as hereinafter prescribed.

[*Section XLI provides that certain officers shall not be sheriffs or mayors: Sections XLII and XLIII relate to enlistment.*]

When recruits to be taken before a Justice.

XLIV. Every person so enlisted as aforesaid shall within ninety-six hours (any intervening *Sunday*, *Christmas-day*, or *Good Friday* not included), but not sooner than twenty-four hours after such enlistment, appear, together with some person employed in the recruiting service, before a Justice of the Peace, not being an officer of the army, in order that he may be attested by making the declaration and taking the oath hereinafter mentioned, or may have an opportunity of objecting to his enlistment; and upon such appearance the Justice or some person deputed by him shall fill up the declaration set forth in the Schedule to this Act annexed, first asking the recruit the questions that are requisite for that purpose, and cautioning him that if he should make any wilfully false answer thereto he will be liable to be punished as a rogue and vagabond.

Dissent and relief from enlistment.

XLV. When a recruit upon appearing before a Justice for the purposes aforesaid shall dissent from or object to his enlistment, and shall satisfy the Justice that the same was effected in any respect irregularly, he shall forthwith discharge the recruit absolutely, and shall report such discharge to the inspecting field officer of the district, or in the case of a recruit enlisted at the head-quarters or depôt of a regiment to the officer commanding the same; but if the recruit so dissenting shall not allege or shall not satisfy the Justice that the enlistment was effected irregularly, nevertheless, upon repayment of the enlisting money, and of any sum received by him in respect of pay, and of a further sum of twenty shillings as smart money, he will be entitled to be discharged, and the sum paid by such recruit upon his discharge shall be kept by the Justice, and, after deducting therefrom one shilling as the fee for reporting the payment to the Secretary of State for the War Department and to the inspecting field officer of the district, shall be paid over to any person belonging to the recruiting party who may demand the same; and the Justice who shall discharge any recruit shall in every case give a certificate thereof, signed with his hand, to the recruit, specifying the cause thereof.

Attesting of recruits.

XLVI. If the recruit on appearing before a Justice shall not dissent from his enlistment, or dissenting shall within twenty-four hours return and declare that he is unable to pay the sums mentioned in the last Section, the Justice shall require him to make

the declaration hereinbefore mentioned in the usual manner, and shall then administer to him the oath of allegiance in the form set forth in the Schedule to this Act annexed; and when the recruit shall have signed the said declaration, and taken the said oath, the Justice shall attest the same by his signature, and shall deliver to the recruiting officer the declaration so signed and attested; and the fee for such attestation, including the declaration and oath, shall be one shilling and no more; and any recruit shall, if he so wish, be furnished with a certified copy of the abovementioned declaration by the officer who finally approved of him for the service.

Recruits, until they have been attested or received pay, not triable by Court-martial, but in certain cases punishable as rogues and vagabonds.

XLVII. No recruit, unless he shall have been attested or shall have received pay other than enlisting money, shall be liable to be tried by Court-martial; but if any recruit previously to his being attested shall by means of any false answer obtain enlistment money, or shall make any false statement in his declaration, or shall refuse to answer any question duly authorized to be put to recruits for the purpose of filling up such declaration, or shall refuse or neglect to go before a Justice for the purposes aforesaid, or having dissented from his enlistment shall wilfully omit to return and pay such money as aforesaid, in any of such cases it shall be lawful for any two Justices within the United Kingdom, or for any one Justice out of the United Kingdom, acting for the county, district, city, burgh, or place where any such recruit shall at any time happen to be, to adjudge such recruit, when he shall be brought before them or him, if in *England*, to be a rogue and vagabond, and to sentence him to be punished accordingly, and if in *Scotland* or *Ireland*, or elsewhere in Her Majesty's dominions, to be imprisoned with hard labour in any prison or house of correction for any period not exceeding three calendar months; and the declaration made by the recruit on his attestation purporting to be made and subscribed in accordance with the Schedule to this Act annexed shall, in the absence of proof to the contrary, be deemed sufficient evidence of such recruit having represented the several particulars as stated in such declaration.

Attested recruits triable in some cases either before two Justices or before a Court-martial.

XLVIII. Any recruit who shall have been attested, and who shall afterwards be discovered to have given any wilfully false answer to any question directed to be put to recruits, or shall have made any wilfully false statement in the declaration hereinbefore mentioned, shall be liable, at the discretion of the proper military authorities, to be proceeded against before two Justices in the manner hereinbefore mentioned, and by them sentenced accordingly, or to be tried by a district or garrison Court-martial for the same, and punished in such manner as such Court shall direct.

Recruits absconding.

XLIX. If any recruit shall abscond, so that it is not possible immediately to apprehend and bring him before a Justice for attestation, the recruiting party shall produce to the Justice before whom the recruit ought regularly to have been brought for that purpose a certificate of the name and place of residence and description of such recruit, and of his having absconded, and shall declare the same to be true; and the Justice to whom such certificate shall be produced shall transmit a duplicate thereof to the Secretary of State for the War Department, in order that the same may appear in the *Police Gazette*.

As to militiamen enlisting into regular forces.

L. If any man while belonging to a militia regiment shall enlist in and be attested for Her Majesty's army, he shall be liable to be tried before a Court-martial on a charge for desertion; but it shall be lawful for the Secretary of State for the War Department to give such general directions as may from time to time appear to him necessary for placing any man who confesses himself to be a militiaman under stoppage of one penny a day of his pay for eighteen calendar months, in lieu of his being tried by Court-martial, and further to give general directions as to the manner in which such stoppage shall be applied, and whether, on making good the same, the man shall be returned to his militia regiment or be deemed to be a soldier in the same manner as if he had not been a militiaman at the time of his attestation: Provided that if the regiment of militia from which the man has deserted be within the United Kingdom, the Secretary of State for the War Department shall not make such latter order without the consent of the commanding officer of such regiment: Provided also, that every soldier who while belonging to a militia regiment enlisted in Her Majesty's army, whether such enlistment took place before or after the passing of the Mutiny Act, 1860, shall reckon service towards the performance of his limited engagement from the date of his attestation: Provided also, that any such soldier shall not reckon service for pension until the day on which his engagement for the militia would have expired; but if any such soldier shall subsequently to his enlistment have rendered long, faithful, or gallant service, the Secretary of State for War may, upon the special recommendation of the Commander-in-Chief, order that he may reckon service for pension from the date of his attestation. If any non-commissioned officer of the volunteer permanent staff enlists in Her Majesty's army he may be tried and punished as a deserter, but if he confesses his desertion the Secretary of State for the War Department, instead of causing him to be tried and punished as a deserter, may cause him to be returned to his service on the volunteer permanent staff, to be there put under stoppages from his pay until he has repaid the amount of any bounty received by him and the expenses attending his enlistment, and also the value of any arms, &c. issued to him while on the volunteer permanent staff, and not duly delivered up by him; or may cause him to be held to his service in Her Majesty's army, with a direction, if it seems fit, that his time of service therein shall not be reckoned for pension until the time when his engagement on the volunteer permanent staff would have expired; and may further cause him to be put under stoppages of one penny a day of his pay until he has repaid the expense attending his engagement or attestation on the volunteer permanent staff, and also the value of any arms, clothing, or appointments issued to him while on the volunteer permanent staff, and not duly delivered up by him.

Punishment of persons offending against laws relating to enlistment.

LI. Every person subject to this Act who shall wilfully act contrary to any of its provisions in any matter relating to the enlisting or attesting of recruits for Her Majesty's army shall be liable to be tried for such offence before a general, district, or garrison Court-martial, and to be sentenced to such punishments other than death or penal servitude as such Courts may award.

Enlistment and re-enlistment, and transfer to another corps abroad.

LII. It shall be lawful for any Justice of the Peace or person exercising the office of a Magistrate within any of Her Majesty's dominions abroad, and in any colony for any other person duly authorized in that behalf by the governor or officer administering

the government of such colony, and in Her Majesty's dominions in *India* for any person duly authorized in that behalf by the Governor General or Lieutenant Governor or other officer administering the government of any presidency, division, or province, and within the territories of any foreign State in *India* for the person performing the duties of the office of *British* Resident therein, and for any other person duly authorized in that behalf by the Governor General, to enlist and attest or to re-engage within the local limits of their several authorities any soldiers or persons desirous of enlisting or re-engaging in Her Majesty's army; and it shall be lawful, notwithstanding anything contained in the Statute twenty-third and twenty-fourth *Victoria*, Chapter one hundred, for any person so authorized in Her Majesty's dominions in *India*, or within the territories of any foreign State in *India*, to enlist and attest within the local limits of his authority any persons desirous of enlisting in Her Majesty's *Indian* forces. Any such Magistrate or person as aforesaid shall have the same powers in that behalf as are by this or any other Act of Parliament given to Justices in the United Kingdom for all such purposes of enlistment and attestation; but no such Magistrate or other person authorized to enlist and attest as above-mentioned shall be a general officer or hold any regimental commission; and all such appointments, past and future, and everything done or to be done under them, shall be valid and of full effect, notwithstanding the expiration of this Act or of any other Act of Parliament; and any person so attested shall be deemed to be an attested soldier.

Soldiers willing may be transferred to succeeding corps.

LIII. When any corps shall be relieved or disbanded at any station beyond the seas it shall be lawful for any officers thereunto authorized by the officer commanding in chief at such station to receive as transfers as many of the soldiers belonging to the corps leaving the station as shall be willing and fit for service for any corps appointed to remain; and every soldier so transferred is hereby deemed to be discharged from his former corps, and an attested certificate of transfer shall be delivered to the soldier.

Soldiers may be transferred from one service to another.

LIV. It shall be lawful for the Commander-in-Chief, or for any officer authorized by him in that behalf, to direct that any soldier attested for any one branch of the service shall, on the application of his commanding officer, and with his own consent, be transferred to some other branch of the service or to some other regiment or corps in the same branch of the service, either within the United Kingdom or elsewhere; and every soldier so transferred shall be deemed to be discharged from his former corps, and shall have a certificate of transfer delivered to him; but any soldier attested for the infantry or commissariat staff corps or military store staff corps, and at his own request transferred to the cavalry, artillery, or engineers, shall be bound to serve for the full term of such service as if originally enlisted therein, and any soldier at his own request transferred from either of such before-mentioned services to the infantry or commissariat staff corps or military store staff corps shall be liable to serve for the term of his original enlistment: Provided always, that any soldier who may have volunteered for the corps of armourer sergeants, or for the army hospital corps, shall be liable, by order of the military authorities above-mentioned, to be retransferred to his former corps, or to any other corps on the station on which he is serving at the time,

for misconduct, unfitness, or any other reasonable cause: Provided also, that any staff clerk or other non-commissioned officer or soldier on the staff of the army may be transferred to any corps serving at the station at the time of his removal from staff employ: Provided also, that upon the conviction by Court-martial of any soldier of the crime of desertion, the officer commanding in chief Her Majesty's forces may, and if the Court-martial has been held at a foreign station the officer commanding in chief Her Majesty's forces at such foreign station may, order such soldier to serve in any regiment or corps.

Re-engagement of soldiers for a further term.

LV. Any soldier at any time during the last six months of the term of limited service for which he shall have first engaged, or after the completion of such term, with the consent of his commanding officer, or any person having been a soldier, and having received his discharge, may, if approved by competent military authority as a fit person for Her Majesty's service, be re-engaged to serve for the further term of eleven years in the infantry or commissariat staff corps or military store staff corps, and twelve years in the cavalry, and nine years in the artillery or engineers, upon making a declaration, in the form given in the Schedule annexed to this Act, before any one of Her Majesty's Justices of the Peace in *Great Britain* or *Ireland*, or if not in *Great Britain* or *Ireland* before any person duly appointed to enlist and attest out of *Great Britain* and *Ireland* any soldiers or persons desirous of enlisting or re-engaging in Her Majesty's service; and on the expiration of the second term of limited service for which any soldier shall have engaged, the said second term of limited service may be prolonged for such further time, not exceeding two years, as shall be directed by the commanding officer of the station where such soldier may be at the time of the expiration of such service; and any soldier who shall give notice to his commanding officer, after completing his second term of limited service, that he is desirous of continuing in Her Majesty's service, and being approved by competent military authority, may be continued in such service as a soldier so long as he shall desire to be so continued, and until the expiration of three calendar months after he shall have given notice to his commanding officer of his wish to be discharged, and for that purpose shall be considered in all respects during such time as if his term of service were still unexpired: Provided always, that in reckoning service under the original enlistment or re-engagement of a soldier the boon service granted by the Governor General of *India*, dated twelfth of *October* one thousand eight hundred and fifty-nine, shall be reckoned as actual service, and allowed towards pension and discharge: Provided also, that every soldier now serving who belonged to the garrison which defended *Lucknow*, or to the garrison which defended the *Alumbagh* before the advance of any portion of the forces under the late Lord *Clyde* in one thousand eight hundred and fifty-seven, shall be allowed to reckon one year's service towards the performance of his limited engagement, and also towards pension on discharge: Provided also, that every soldier who volunteered into Her Majesty's army from any embodied regiment of militia subsequently to the thirty-first of *December* one thousand eight hundred and fifty-five, or during the last week of the training of his regiment in the year one thousand eight hundred and fifty-eight, and who had rendered previous to volunteering six months' embodied or disembodied militia service, shall be allowed to reckon towards good conduct

Boon service to be reckoned.

pay and pension, and towards the completion of his limited engagement of service in Her Majesty's army, half the embodied service which he had rendered in the militia after attaining the age of eighteen.

[*Sections LVI to LVIII relate to negroes and apprentices.*]

Removal of doubts as to attestation of soldiers.

LIX. No person who shall, for six months either before or after the passing of this Act, have received pay and been borne on the strength and pay list of any regiment or corps, or depôt or battalion of a regiment or corps (of which the last quarterly pay list, if produced, shall be evidence), shall be entitled to claim his discharge on the ground of error or illegality in his enlistment or attestation, or on any other ground whatsoever, but, on the contrary, every such person shall be deemed to have been duly enlisted and attested.

Authorized deductions only to be made from the pay of the army

LX. No Secretary of State for the War Department, Paymaster General of the army, paymaster, or any other officer whatsoever, or any of their under officers, shall receive any fees or make any deductions whatsoever out of the pay of any officer or soldier in Her Majesty's army, or from their agents, which shall grow due from and after the twenty-fifth day of *April* one thousand eight hundred and sixty-seven, other than the usual deductions, or such other necessary deductions as shall from time to time be authorized or required by Her Majesty's regulations or articles of war, or by Statute twenty-six and twenty-seven *Victoria*, Chapter sixty-five, Section eight (Volunteer Act), or by Her Majesty's order signified by the Secretary of State for the War Department; and every paymaster or other officer who having received any officer's or soldier's pay shall unlawfully detain the same for the space of one month, or refuse to pay the same when it shall become due, according to the several rates and agreeably to the several regulations established by Her Majesty's orders, shall, upon proof thereof before a Court-martial, be discharged from his employment, and shall forfeit one hundred pounds, and the informer, if a soldier, shall, if he demand it, be discharged from any further service.

[*Sections LXI to LXVI relate to billets in the United Kingdom.*]

Interpretation of Act.

LXVII. All powers and provisions relating to soldiers shall be construed to extend to non-commissioned officers, unless when otherwise provided; and all powers and provisions relating to Justices shall be construed to extend to all Magistrates authorized to act as such in their respective jurisdictions and to chief Magistrates of exclusive local jurisdictions. * * * *

[*Sections LXVIII to LXXII relate only to the United Kingdom.*]

Tolls

LXXIII. All Her Majesty's officers and soldiers, on duty or on their march, and their horses and baggage, and all recruits marching by route, and all prisoners under military escort, and all enrolled pensioners in uniform when called out for training or in aid of the civil power, and all carriages and horses belonging to Her Majesty or employed in Her service under the provisions of this Act, or in any of Her Majesty's colonies, when conveying any such persons as aforesaid, or their baggage, or returning from conveying the same, shall be exempted from payment of any duties and tolls on embarking or

disembarking from or upon any pier, wharf, quay, or landing place, or in passing along or over any turnpike or other roads or bridges, otherwise demandable by virtue of any Act already passed or hereafter to be passed, or by virtue of any Act or ordinance, order or direction of any colonial legislature or other authority in any of Her Majesty's colonies; provided that nothing herein contained shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels are liable thereto, except when employed in cases of emergency as hereinbefore enacted.

[*Section* LXXIV *relates only to Scotland.*]

Marching money on discharge.

LXXV. Every soldier entitled to his discharge shall, if then serving abroad, be sent, if he shall so require, to *Great Britain* or *Ireland* free of expense, and shall be entitled to receive marching money from the place of his being landed (or, if discharged at home, shall receive marching money from the place of his discharge,) to the parish or place in which he shall have been originally enlisted, or at which he shall at the time of his discharge decide to take up his residence, such place not being at a greater distance from the place of his discharge than the place of his original enlistment.

Ordinary course of criminal justice not to be interfered with.

LXXVI. Nothing in this Act contained shall be construed to extend to exempt any officer or soldier from being proceeded against by the ordinary course of law, when accused of felony, or of misdemeanor, or of any crime or offence other than the misdemeanors and offences hereinbefore mentioned; and if any commanding officer shall neglect or refuse, on application being made to him for that purpose, to deliver over to the civil Magistrate any officer or soldier under his command, or shall wilfully obstruct, neglect, or refuse to assist the officers of justice in apprehending any officer or soldier under his command, so accused as aforesaid, such commanding officer shall upon conviction thereof in any of Her Majesty's Superior Courts at *Westminster*, *Dublin*, or *Edinburgh*, or in any Court of record in *India*, be deemed to be thereupon cashiered, and shall be thenceforth utterly disabled to have or hold any civil or military office or employment in the United Kingdom of *Great Britain* and *Ireland* or in Her Majesty's service; and a certificate of such conviction, containing the substance and effect of the indictment only, omitting the formal part, with the copy of the entry of the judgment of the Court thereon, shall be transmitted to the Judge Advocate General in *London*.

Punishment of officers obstructing civil justice.

[*Section LXXVII relates to army agents, and Section LXXVIII to trafficking in commissions.*]

Penalty for procuring false musters.

LXXIX. Every person, not having any military commission, who shall give or procure to be given any untrue certificate, whereby to excuse any soldier for his absence from any muster or any other service which he ought to attend or perform, or who shall directly or indirectly cause to be taken any money or gratuity for mustering any soldiers, or for signing any muster rolls or duplicates thereof, shall forfeit for every such offence the sum of fifty pounds; and any person who shall falsely be mustered, or offer himself to be mustered, or lend or furnish any horse to be falsely mustered, shall, upon conviction

before some Justice of the Peace residing near the place where such muster shall be made, forfeit for every such offence the sum of twenty pounds; and the informer, if he belongs to Her Majesty's service, shall, if he demand it, be forthwith discharged.

Penalty on unlawful recruiting

LXXX. Every person (except such person or persons as shall be authorized by beating order under the hand of the Secretary of State for the War Department) who shall cause to be advertised, posted, or dispersed bills for the purpose of procuring recruits or substitutes for the line, embodied militia, or Her Majesty's *Indian* forces, or shall open or keep any house, place of rendezvous, or office, or receive any person therein under such bill or advertisement, as connected with the recruiting service, or shall directly or indirectly interfere therewith, without permission in writing from the Adjutant General, or from the Secretary of State in Council of *India* (as the case may be), shall forfeit for every such offence a sum not exceeding twenty pounds.

Penalty for inducing soldiers to desert.

LXXXI. Any person who shall in any part of Her Majesty's dominions, or by any means whatsoever, directly or indirectly, procure any soldier to desert, or attempt to procure or persuade any soldier to desert, and any person who, knowing that any soldier is about to desert, shall aid or assist him in deserting, or, knowing any soldier to be a deserter, shall conceal such deserter, or aid or assist such deserter in concealing himself, or aid or assist in his rescue, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof before any two Justices acting for the county, district, city, burgh, or place where any such offender shall at any time happen to be, be liable to be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for such term not exceeding six calendar months as the convicting Justices shall think fit.

Penalty for forcible entry in pursuit of deserters without warrant

LXXXII. Any officer or soldier who shall, in pursuit of any deserter, forcibly enter into or break open any dwelling-house or outhouse, or shall give any order under which any dwelling-house or outhouse shall be forcibly entered into or broken open, without a warrant from one or more Justices of the Peace, shall, on conviction thereof before two Justices of the Peace, forfeit a sum not exceeding twenty pounds.

Penalties on aiding escape or attempt to escape of prisoners, and on breach of prison regulations.

LXXXIII. If any person shall convey or cause to be conveyed into any military prison appointed to be a public prison under this Act any arms, tools, or instruments, or any mask or other disguise, in order to facilitate the escape of any prisoner, or shall by any means whatever aid and assist any prisoner to escape or in attempting to escape from such prison, whether an escape be actually made or not, such person shall be deemed guilty of felony, and upon being convicted thereof shall be kept to penal servitude for any term not less than four years and not exceeding six years, or be imprisoned, with or without hard labour, for any term not exceeding two years; and if any person shall bring or attempt to bring into such prison, in contravention of the existing rules thereof, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding twenty pounds and not less than ten pounds, or to be imprisoned, with or without hard labour, for any time not exceeding three calendar months; and if any person shall bring into such prison, to or for any prisoner, without the knowledge of the governor, any

money, clothing, provisions, tobacco, letters, papers, or any other articles not allowed by the rules of the prison to be in the possession of a prisoner, or shall throw into the said prison any such articles, or shall by desire of any prisoner, without the sanction of the governor, carry out of the prison any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds, or to be imprisoned, either with or without hard labour, for any time not exceeding one calendar month; and if any person shall assault or violently resist any officer of such prison in the execution of his duty, or shall aid or excite any person so to assault or resist any such officer, he shall for every such offence be liable to a penalty not exceeding five pounds, or to be imprisoned, with or without hard labour, for any time not exceeding one calendar month, or, if the offender be a soldier already under sentence of imprisonment, he shall be liable for every such offence upon conviction thereof by a board of not less than three of the visitors of the prison, to be imprisoned, either with or without hard labour, for any time not exceeding six calendar months, in addition to his original sentence, or to be subjected to corporal punishment not exceeding fifty lashes, or upon conviction thereof by a single visitor to be imprisoned, with or without hard labour, for any time not exceeding seventy-two hours, in addition to his original sentence, or to be subjected to corporal punishment not exceeding twenty-five lashes; or if such soldier shall, within forty-eight hours of the expiration of his original or of any additional sentence, be guilty of any offence against the rules of the prison, he may for every such offence, on conviction thereof by a board or by a single visitor, be ordered to be kept in prison for a period not exceeding seventy-two hours in either a dark or light cell, and with or without hard labour or solitary confinement, on a bread and water diet, or otherwise; and all the provisions of any Act or Acts of Parliament for the regulation or better ordering of gaols, houses of correction, or prisons in *Great Britain* shall be deemed to apply to all military prisons so far as any such provision relates to such offences; and it shall be lawful for the governor, provost marshal, officer, or servant of any military prison to use and exercise all the powers and authorities given by any such Act to the gaoler, keeper, or turnkey of any prison, or to his or their assistants, to apprehend or to cause offenders to be apprehended, in order to their being taken before a Justice or Justices of the Peace; and all the powers and authorities given by any such Act to any Justice or Justices of the Peace to convict offenders in any of the above cases, together with the forms of convictions contained in any such Act, shall be applicable to the like offences when committed in respect of military prisons; and all the provisions contained in any such Act relating to suits and actions prosecuted against any person for anything done in pursuance of such Act shall be deemed to apply to all suits and actions prosecuted against any person acting in pursuance of such Act in respect of military prisons.

Certain provisions of Acts for regulating gaols to apply to military prisons.

LXXXIV. Any governor, provost marshal, gaoler, or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement, who shall refuse to receive and to confine, or to discharge or deliver over, any military offender in the manner hereinbefore prescribed, shall forfeit for every such offence the sum of one hundred pounds.

Penalty on keepers of prisons for refusing to confine, &c. military offenders.

Penalty on purchasing soldiers' necessaries, stores, &c.

LXXXV. Any person who shall knowingly detain, buy, exchange, or receive from any soldier or deserter or any other person acting for or on his behalf, on any pretence whatsoever, or who shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, medals for good conduct or for distinguishment or other service, clothes, or military furniture, or any provisions, or any sheets or other articles used in barracks provided under barrack regulations, or regimental necessaries, or any article of forage provided for any horses belonging to Her Majesty's service, or who shall have in his or her possession or keeping any such arms, ammunition, medals, clothes, furniture, provisions, spirits, articles, necessaries, or forage, and shall not give a satisfactory account how he or she came by the same, or shall change the colour of any clothes as aforesaid, shall forfeit for every such offence any sum not exceeding twenty pounds, together with treble the value of all or any of the several articles of which such offender shall so become or be possessed; and if any person having been so convicted shall afterwards be guilty of any such offence, he shall for every such offence forfeit any sum not exceeding twenty pounds but not less than five pounds, and the treble value of all or any of the several articles of which such offender shall have so become possessed, and shall in addition to such forfeiture be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for such term, not exceeding six calendar months, as the convicting Justice or Justices shall think fit; and upon any information against any person for a second or any subsequent offence, a copy of the former conviction, certified by the proper officer having the care or custody of such conviction, or any copy of the same proved to be a true copy, shall be sufficient evidence to prove such former conviction; and if any credible person shall prove on oath before a Justice of the Peace, or person exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed, a reasonable cause to suspect that any person has in his or her possession, or on his or her premises, any property of the description hereinbefore described, on or with respect to which any such offence shall have been committed, such Justice may grant a warrant to search for such property as in the case of stolen goods; and if upon such search any such property shall be found, the same shall and may be seized by the officer charged with the execution of such warrant, who shall bring the offender in whose possession the same shall be found before the same or any other Justice of the Peace, to be dealt with according to law: Provided always, that it shall be lawful for the legislature of any of Her Majesty's foreign dominions, on the recommendation of the officer or officers for the time being administering the government thereof, but not otherwise, to make provision by law for reducing such pecuniary penalty, if not exceeding twenty pounds, to such amount as may to such legislature appear to be better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting the same, which reduced penalty shall be sued for and recovered in such and the same manner as the full penalty hereby imposed (*a*): Provided also, that it shall

(*a*). See Act No. VII of 1867, which reduces the same penalty imposed by stat. 29 Vic., cap. 9.—*Ed.*

be competent to Her Majesty, or to the person or persons administering the government of any such foreign dominions as aforesaid, to exercise, in respect of the laws so to be passed as aforesaid, all such powers and authorities as are by law vested in Her Majesty or in any such officer or officers as aforesaid in respect of any other law made or enacted by any such legislature.

Penalties on toll collectors demanding toll from officers, soldiers, or for carriages;

LXXXVI.**** If any toll collector shall demand and receive toll from any of Her Majesty's officers or soldiers, on duty or on their march, for themselves or for their horses, or from any recruits marching by route, or from any prisoners under military escort, or from any enrolled pensioners in uniform when called out for training or in aid of the civil power, or for any carriages or horses belonging to Her Majesty, or employed in Her service under the provisions of this Act, or in any of Her Majesty's colonies, when conveying persons or baggage or returning therefrom, every such constable, victualler, toll keeper, or other person respectively shall forfeit for every such offence, neglect, or refusal any sum not exceeding five pounds nor less than forty shillings; and if any person shall personate or represent himself to be a soldier or a recruit, with the view of fraudulently obtaining a billet, or money in lieu thereof, he shall for every such offence forfeit any sum not exceeding five pounds nor less than twenty shillings.

and on persons personating soldiers, &c.

[*Sections LXXXVII and LXXXVIII relate only to the United Kingdom.*]

Form of actions at law.

LXXXIX. Any action which shall be brought against any person for anything to be done in pursuance of this Act shall be brought within six calendar months after the doing thereof, and it shall be lawful for every such person to plead thereunto the general issue not guilty, and to give all special matter in evidence to the jury; and if the verdict shall be for the defendant in any such action, or the plaintiff therein become nonsuited or suffer any discontinuance thereof, or if in *Scotland* such Court shall see fit to assoilzie the defendant or dismiss the complaint, the Court in which the said matter shall be tried shall allow unto the defendant treble costs, for which the said defendant shall have the like remedy as in other cases where costs are by law given to defendants; and every action against any person for anything done in pursuance of this Act, or against any member or minister of a Court-martial in respect of any sentence of such Court, or of anything done by virtue or in pursuance of such sentence, shall be brought in some one of the Courts of Record at *Westminster*, or in *Dublin*, or in *India*, or in the Court of Session in *Scotland*, and in no other Court whatsoever.

Recovery of penalties.

XC. All offences for which any penalties and forfeitures are by this Act imposed not exceeding twenty pounds, over and above any forfeiture of value or treble value, shall and may be determined, and such penalties and forfeitures and forfeiture of value or treble value recovered, in every part of the United Kingdom, by and before one or more Justice or Justices of the Peace, under the provisions of an Act passed in the eleventh and twelfth years of the reign of Her Majesty Queen *Victoria*, intituled An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions, within *England* and *Wales*, with respect to summary convictions and orders: Provided always, that in all cases in which there shall not be sufficient goods whereon any penalty or forfeiture can be levied,

11 & 12 Vic., c. 43.

the offender may be committed and imprisoned for any time not exceeding six calendar months; which said recited Act shall be used and applied, in *Scotland* and in *Ireland*, for the recovery of all such penalties and forfeitures, as fully to all intents as if the said recited Act had extended to *Scotland* and *Ireland*, anything in the said recited Act, or in an Act
14 & 15 Vic., c. 93. passed in the fourteenth and fifteenth years of the reign of Her Majesty Queen *Victoria*, intituled An Act to consolidate and amend the Acts regulating the proceedings at petty sessions, and the duties of Justices of the Peace out of quarter sessions, in *Ireland*, to the contrary notwithstanding; and all such offences committed in the *British Isles* or in any of Her Majesty's dominions beyond the seas may be determined, and the penalties and forfeitures and forfeiture of value or treble value recovered, before any Justices of the Peace, or persons exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed; and all penalties and forfeitures by this Act imposed exceeding twenty pounds shall be recovered by action in some of the Courts of Record at *Westminster*, or in *Dublin*, or in *India*, or in the Court of Session in *Scotland*, and in no other Court in the United Kingdom, and may be recovered in the *British Isles*, or in any other parts of Her Majesty's dominions, in any of the royal or superior Courts of such Isles or other parts of Her Majesty's dominions.

Appropriation of penalties.

XCI. One moiety of every penalty, not including any treble value of any articles, adjudged or recovered under the provisions of this Act, shall, in the United Kingdom, go to the person who shall inform or sue for the same, and the remainder of the penalty, together with the treble value of any articles, or, where the offence shall be proved by the person who shall inform, the whole of the penalty, shall be paid to the general agent for the recruiting service in *London*, and in *India* to the Military Secretary of the Government of the presidency to which the Court by whom the penalty shall be adjudicated shall be subject, to be at the disposal of the Secretary of State for the War
5 & 6 W. 4, c. 76. Department, anything in an Act passed in the fifth and sixth years of the reign of His late Majesty King *William* the Fourth, intituled An Act to provide for the regulation of municipal corporations in *England* and *Wales*, or in any other Act or Acts, to the contrary notwithstanding; and every Justice in the United Kingdom who shall adjudge any penalty under this Act shall, within four days at the farthest, report the same to the said Secretary of State, and in *India* the Court which shall adjudge any penalty under this Act shall immediately report the same to the said Military Secretary.

[*Section XCII relates only to the United Kingdom.*]

Licenses of canteens.

XCIII. When any person shall hold any canteen under proper authority of the War Department, it shall be lawful for any two Justices within their respective jurisdictions to grant or transfer any beer, wine, or spirit license to such persons, without regard to time of year or to the notices or certificates required by any Act in respect of such licenses; and the commissioners of excise, or their proper officers within their respective districts, shall also grant such licenses as aforesaid; and such persons so holding canteens, and having such licenses, may sell therein victuals and exciseable liquors, as empowered by such excise license, without being subject to any penalty or forfeiture.

Attestation of accounts.

XCIV. All muster rolls and accounts and pay and pension lists which are required to be verified by declaration shall be so verified and attested free of stamp-duty and without fee or reward paid for such declaration or attestation.

Commissaries, &c to attest their accounts

XCV. All commissaries, regimental paymasters, and all other accountants for military services, storekeepers, and barrack masters, upon making up their accounts, and all commissaries and storekeepers upon returning from any foreign service, shall severally make the respective declarations described in the Schedule to this Act annexed; which declarations, if made in any part of the United Kingdom, shall be made before some Justice, or other person authorized to administer oaths and declarations, and if made on foreign service shall be made before the officer commanding in chief, or the second in command, or the Quartermaster or Deputy Quartermaster General or any Assistant Quartermaster General of the army, who shall respectively have power to administer and receive the same.

Administration of oaths

Perjury.

XCVI. All oaths and declarations which are authorized and required by this Act may be administered (unless where otherwise provided) by any Justice of the Peace, or other person having authority to administer oaths and declarations; and any person taking a false oath or declaration where an oath or declaration is authorized or required by this Act shall be deemed guilty of wilful and corrupt perjury, or of wilfully making a false declaration, and being thereof duly convicted shall be liable to such pains and penalties as by law any person convicted of wilful and corrupt perjury is subject and liable to; and every commissioned officer convicted before a general Court-martial of perjury, or of wilfully making a false declaration, shall be cashiered, and every soldier or other person amenable to the provisions of this Act found guilty thereof by a general, district, or garrison Court-martial shall be punished at the discretion of such Court. In *India*, in all cases where any oath is hereby required to be taken, or any person is hereby required to be sworn, a solemn declaration or affirmation may be substituted, if by the laws for the time being in force in *India* such declaration or affirmation would be allowed to be substituted in the place of an oath, in case the party were about to depose as a witness in a civil action in any of the Supreme Courts at the presidencies; and any person wilfully and knowingly giving false testimony on oath or solemn declaration or affirmation in any case wherein such oath or solemn declaration or affirmation shall have been made for the purpose of this Act, or any proceedings under this Act, shall be deemed guilty of wilful and corrupt perjury, and, being duly convicted thereof before a Court-martial or otherwise, shall be liable to such pains and penalties as by any law in force in *England*, or by any law in force in *India*, any persons convicted of wilful and corrupt perjury are subject and liable to.

Offences against former Mutiny Acts and Articles of War.

XCVII. All crimes and offences which have been committed against any former Act for punishing mutiny and desertion, and for the better payment of the army and their quarters, or against any Act for punishing mutiny and desertion of officers and soldiers in the service of the *East India* Company, or against any of the Articles of War made and established by virtue of either of the same, may, during the continuance of this Act, be

tried and punished in like manner as if they had been committed against this Act; and every warrant for holding any Court-martial under any such former Act shall remain in full force, and all proceedings of Courts-martial convened and held under any such warrant shall be continued, notwithstanding the expiration of such Act: Provided always, that no person shall be liable to be tried or punished for any offence against any of the said Acts or Articles of War which shall appear to have been committed more than three years before the date of the warrant for such trial, unless the person accused, by reason of his having absented himself, or of some other manifest impediment, shall not have been amenable to justice within that period, in which case such person shall be liable to be tried at any time not exceeding two years after the impediment shall have ceased.

Officers and soldiers to conform to 26 & 27 Vic., c. 57, &c.

XCVIII. It shall be the duty of all officers and soldiers to observe and conform to the provisions contained in "The Regimental Debts' Act, 1863," and in the regulations for the better execution of the purposes of the said Act prescribed from time to time by warrant under the royal sign manual.

Where troops are serving beyond the jurisdiction of the Courts of Requests, &c., actions of debt not exceeding 400 rupees to be cognizable by a military Court.

XCIX. In all places in *India* where any body of Her Majesty's forces may be serving situate beyond the jurisdiction of any Courts of Requests, or other Courts for enforcing small demands, established at the cities of *Calcutta*, *Madras*, and *Bombay* respectively, actions of debt, and all personal actions against officers or against persons licensed to act as sutlers, or other persons amenable to the provisions of this Act not being soldiers, shall be cognizable before a Court of Requests composed of military officers, and not elsewhere, provided the value in question shall not exceed four hundred rupees, and that the defendant was a person of the above description when the cause of action arose, which Court the commanding officer of any camp, garrison, cantonment, or military post is hereby authorized and empowered to convene; and the said Court shall in all practicable cases consist of five commissioned officers, and in no instance of less than three, and the president thereof shall in all practicable cases be a field officer, and in no case be under the rank of a captain, and every member shall have served five years as a commissioned officer; and the president and members assisting at any such Court, before any proceedings be had before it, shall take the following oath, which oath shall be administered by the president of the Court to the other members thereof, and to the president by any member having first taken the oath; (that is to say),

Composition and constitution of the Court prescribed

President, &c., of Court to take the following oath.

'I swear, that I will duly administer justice according to the evidence in the matters that shall be brought before me. So help me GOD.'

Powers of such Court defined.

And all witnesses before any such Court shall be examined in the same manner as in the case of a trial by Court-martial; and it shall be competent for such Court, upon finding or awarding any debt or damage, either to award execution thereof generally, or to direct specially that the whole or any part thereof shall be stopped and paid over to the plaintiff out of any part not exceeding one-half of any pay or allowance, or out of any other public money which may respectively be coming to the defendant in the current or any future month or months, or to direct the same to be so paid by instalments; and in all cases where the execution shall be awarded generally, the debt, if not paid forthwith, shall be levied by seizure and public sale of such of the defendant's goods and property

as may be found within the camp, garrison, cantonment, or military post, under a written order of the commanding officer, grounded on the judgment of the Court; and all orders of such commanding officer as to the manner of such sale, or the person by whom the same shall be made, or otherwise respecting the same, shall be valid and binding, and any goods and property of the defendant found within the limits of the camp, garrison, cantonment, or military post to which the defendant shall belong at any subsequent time shall be liable to be seized and sold in like manner in satisfaction of any remainder of such debt or damages; and if any question shall arise whether any such effects or property are liable to be taken in execution as aforesaid, the decision and order of the said commanding officer shall be final and conclusive with respect to the same, and if sufficient goods shall not be found within the limits of the camp, garrison, cantonment, or military post, then any public money or any part not exceeding one-half of the pay or allowances accruing to the defendant shall be stopped in liquidation of such debt or damages; and if such defendant shall not receive pay as an officer or from any public department, but be a sutler, servant, or follower, he may be arrested by like order of the commanding officer, and imprisoned in some convenient place within the military boundaries for any period not exceeding two months, unless the debt be sooner paid; and the said commanding officer shall not, nor shall any person acting on his orders in respect of the matters aforesaid, incur any liability to any person or persons whomsoever for any act done by him in pursuance of the provisions aforesaid; and in cases where the said Court shall direct specially that the whole or any part of the debt or damages shall be stopped and paid out of part of any pay or allowances, or out of any public money, the same shall be stopped and paid accordingly in conformity with such direction: Provided always, that nothing hereinbefore contained shall enable any such action as aforesaid to be brought in the said Court by any officer or soldier against any officer.

Provisions relating to Courts-martial on officers and soldiers of Her Majesty's Indian forces.

C. Whenever any Court-martial may be held in *India* by virtue of this Act on any officer or soldier of Her Majesty's *Indian* forces, there shall sit on such Court-martial one or more officer or officers of Her Majesty's said *Indian* forces, if the attendance of such officer or officers can be conveniently had, and if the attendance of no such officer or officers can be conveniently had, then the officer convening such Court-martial shall specify the same in his warrant or order convening the Court-martial; and the Government of any of the presidencies in *India* may suspend the proceedings of any Court-martial held in *India* on any officer or soldier belonging to Her Majesty's *Indian* forces within such presidencies respectively; and if any officer belonging to Her Majesty's *Indian* forces shall think himself wronged by the officer commanding the regiment, and shall upon due application made to him not receive the redress to which he may consider himself entitled, he may complain to his Commander-in-chief in order to obtain justice, who is hereby required to examine into such complaint, and thereupon, either by himself or by his Adjutant General, to make his report to the Government of the presidency to which such officer belongs, in order to receive the further directions of such Government: Provided that no officer of Her Majesty's *Indian* forces aforesaid who may have joined or may join either of the staff corps formed in the several presidencies of *India* under the warrant of Her Majesty bearing date the sixteenth day of *January* one thousand eight

Proviso.

hundred and sixty-one, constituting the said corps, and no officer or soldier of Her Majesty's *Indian* forces aforesaid who shall have volunteered or may volunteer to join Her Majesty's general military service, shall be deemed to be an officer of Her Majesty's *Indian* forces for the purposes of this Section.

As to trial of officers and soldiers serving in India.

CI. Any officer or soldier, or other person subject to this Act, who shall be serving in the territories of any foreign State in *India* or in any country in *India* under the protection of Her Majesty, or at any place in Her Majesty's dominions in *India* (other than *Prince of Wales' Island, Singapore,* or *Malacca*), at a distance of upwards of one hundred and twenty miles from the presidencies of *Fort William, Fort Saint George,* and *Bombay* respectively, and who shall be accused of having committed treason or any other crime which, if committed in *England,* would be felony, may be tried by a general Court-martial, to be appointed by the general or other officer commanding in chief in such place for the time being, and, if found guilty, shall be liable to be sentenced by such Court-martial to suffer such punishment as might legally have been awarded by any of Her Majesty's Courts of ordinary criminal jurisdiction within Her Majesty's dominions in *India* in respect of an offence of a like nature and degree, and committed within the jurisdiction of such last-mentioned Court; but no sentence of a general Court-martial for any such offence shall be carried into execution until the same shall have been duly confirmed; and it shall be lawful for such general or other officer commanding in chief as aforesaid to confirm the sentence of any such general Court-martial; and such general or other officer as aforesaid may, if he shall think fit, suspend, mitigate, or remit the sentence; or, in the case of a sentence of penal servitude, may commute the same to imprisonment, with or without hard labour, for such period as to him shall seem fit: Provided always, that in all cases wherein a sentence of death or penal servitude shall have been awarded by any such general Court-martial held for the trial of a commissioned officer, or where a sentence of death shall have been awarded by any such general Court-martial held for the trial of any person subject to this Act other than a commissioned officer, such sentence shall not be carried into execution until it shall have been duly approved by the Governor General in Council, or Governor in Council of the presidency in the territories subordinate to which the offender shall have been tried: Provided also, that any person who may have been so tried as aforesaid shall not be tried for the same offence by any other Court whatsoever.

Duration of this Act.

CII. This Act shall be and continue in force * * * * in *India,* and within the *Cape of Good Hope,* the *Isle of France* or *Mauritius* and its dependencies, *Saint Helena,* and the settlements on the western coast of *Africa,* from the first day of *January* one thousand eight hundred and sixty-eight inclusive until the first day of *January* one thousand eight hundred and sixty-nine; * * * * Provided always, that this Act shall, from and after the receipt and promulgation thereof in general orders in any part of Her Majesty's dominions or elsewhere beyond the seas, become and be in full force, anything herein stated to the contrary notwithstanding.

SCHEDULES referred to by the foregoing Act.

NOTICE to be given to a RECRUIT at the time of his ENLISTMENT.

Date 186

A. B.

TAKE Notice, That you enlisted with at o'clock * on the day of for the regiment [*instead of the words "for the regiment" any words may be substituted which are applicable to the case*], and if you do not come to [*here name some place*] on or before o'clock * on the day of for the purpose of being taken before a Justice, either to be attested or to release yourself from your engagement by repaying the enlisting shilling and any pay you may have received as a recruit, and by paying twenty shillings as smart money, you will be liable to be punished as a rogue and vagabond.

You are hereby also warned that you will be liable to the same punishment if you make any wilfully false representation at the time of attestation.

Signature of the Non-commissioned Officer serving the Notice. } _____

DECLARATION to be made by RECRUIT on ATTESTATION.

I now residing in the parish of in the county of , do solemnly and sincerely declare, That to the best of my knowledge and belief I was born in the parish of (*a*) in or near the town of (*b*) in the county of (*c*) and am years of age; that I am of the trade or calling of [*or* of no trade or calling, *as the case may be*] ; that I am not an apprentice; that I am not married; that I am NOT a widower; [*or* that I am a widower, and that I have (*or* have not) children;] that I do not belong to the militia, or to the naval coast volunteers, or to any portion of Her Majesty's land or sea forces; that I have never served Her Majesty by land or sea in any military or naval employment whatsoever, except ; that I have never been marked with the letter D; that I have never been rejected as unfit for Her Majesty's service on any previous enlistment; that I was enlisted at on the day of 186 , at o'clock M. by of , and that I have read [*or* had read to me] the notice then given to me, and understood its meaning; that I enlisted for a bounty of and a free kit, and have no objection to make to the manner of my enlistment; that I am willing to be attested to

* A. M. or P. M. as the case may be.

Note.—(*a*), (*b*), (*c*). These blanks need not be filled up if the recruit is unable to give the requisite information.

serve in the regiment of [*instead of the words "in the regiment" any words may be substituted which are applicable to the case in or for whatever part of Her Majesty's dominions the enlistment may be made*] for the term of [*the blank after the words "term of" to be filled up with ten years for infantry and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)*], provided Her Majesty should so long require my services, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station.

_____ *Signature of Recruit.*

_____ *Signature of Witness.*

OATH to be taken by a RECRUIT on ATTESTATION.

I do make oath, That I will be faithful and bear true allegiance to Her Majesty, Her heirs and successors, and that I will, as in duty bound, honestly and faithfully defend Her Majesty, Her heirs and successors, in person, crown, and dignity, against all enemies, and will observe and obey all orders of Her Majesty, Her heirs and successors, and of the generals and officers set over me. So help me GOD.

Witness my hand,_____ *Signature of Recruit.*

_____ *Witness present.*

The above declaration and oath were made before me at this day of one thousand eight hundred and at o'clock.

*Signature of Justice.*_____

DECLARATION to be made by a SOLDIER, or PERSON having been a SOLDIER, on renewing his service.

I do declare, That I am at present [*or* was, *as the case may be*,] in Captain Company in the regiment [*the foregoing portion of this declaration may be altered to suit each particular case*]; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve Her Majesty, Her heirs and successors, for a further term of years [*to be*

filled up with eleven years in the infantry, or twelve in the cavalry, or nine in the artillery or engineers, and, in the case of a soldier about to embark for foreign service, with such number of years as shall be required to complete a total service of twenty-one years in the artillery, engineers, and infantry, or twenty-four in the cavalry], provided my services should so long be required, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station.

Declared before me ——— the ——— day of ——— 18——.

——— *Signature of Soldier.*

——— *Signature of Witness.*

[*The forms of Masters' oaths and Justices' certificates, in the case of apprentices, are omitted.*]

Form of Declaration of Attestation of a Commissary's or Purveyor's Accounts.

I do solemnly and sincerely declare, That I have not applied any monies or stores or supplies under my care or distribution to my own use, or to the private use of any other person by way of loan to such person or otherwise, or in any manner applied them, or knowingly permitted them to be applied, to any other than public purposes, according to the duty of my office.

Declared before me by the within-named }
this day of }

Justice of the Peace of
or *Commander-in-Chief*, or *second in command, et cætera, the army serving in et cætera* [*as the case may be*].

Form of Declaration of Attestation of a Storekeeper's Accounts.

I , storekeeper at , do hereby solemnly and sincerely declare, That I have charged myself in this account with the several sums drawn for or received by me on imprests, or for rents, sale of old stores, or for any other article or service; that they are just and true, and include every sum for which I am accountable during the period stated. I also solemnly declare, that I have not, directly or indirectly, received any profit, fee, emolument, or advantage whatever beyond my salary and authorized allowances, except the trifling advantage which may have arisen in respect to the fractional parts of a penny in the totals of the pay lists, as sanctioned by the regulations of 19th December 1832 $\frac{5}{1178}$ (See Art. 246, at page 65, of Home Regulations); and I further solemnly declare, that the several sums of money for which I have taken credit as disbursements in this account, amounting to , have been actually and *bonâ fide* paid by me for the respective services, without any deductions, to

the several persons entitled to the same, and that the receipts which accompany this account have been actually signed and witnessed by the persons stated therein; and I make this declaration, conscientiously believing the same to be true.

_____,

*Storekeeper at*_____.

Declared before me at this day of 18 .}

_____,

Magistrate for _____.

FORM of DECLARATION of ATTESTATION of a BARRACK MASTER'S ACCOUNTS.

I , Barrack Master of the barracks at , do hereby solemnly and sincerely declare, That I have charged myself in this account with the several sums drawn for or received by me on imprests, or for rents, damages, and deficiencies, washing sheets, or for any other article or service; that they are just and true, and include every sum for which I am accountable during the period stated. I also solemnly declare, that I have not, directly or indirectly, received any profit, fee, emolument, or advantage whatever from or on account of the purchase or issue of any of the articles for the service of the said barracks, nor have I any property in lands, houses, tenements, or any article used or employed in the service of the War Department; and I further solemnly declare, that the several sums of money for which I have taken credit as disbursements in this account, amounting to , have been actually and *bonâ fide* paid by me for the respective services, without any deductions, to the several persons entitled to the same, and that the receipts which accompany this account have been actually signed and witnessed by the persons stated therein; and I make this declaration, conscientiously believing the same to be true.

_____,

*Barrack Master at*_____.

Declared before me at this day of 18 .}

_____,

Magistrate for _____.

FORM of DECLARATION of ATTESTATION of a PAYMASTER'S ACCOUNTS.

I do solemnly and sincerely declare, That the foregoing pay list of the regiment of , for the period ended 186 , contains charges of pay for only such non-commissioned officers, drummers, fifers,

buglers, and privates as were effective and entitled to pay during, and regularly mustered at, the periods set against their names; that all those men who were not present at the respective musters taken by me on the , the , and the have the true reasons of their absence stated against their names; and that every absence affecting the pay or allowances of such men which occurred between the respective musters is properly accounted for.

Also, that the list of commissioned officers prefixed to the said pay list contains a true and just statement of the names of all the commissioned officers who have been effective and entitled to pay as belonging to the said regiment for the periods therein set down against their respective names; also, that all the remarks opposite to their names on the muster roll have been correctly copied therein; and that the sum debited in the general state of this pay list for the pay of officers has been actually received by me and paid to them respectively.

Also, that the whole of the sums debited in this pay list and account, amounting to , have been actually and *bonâ fide* disbursed by me in conformity with the established regulations, and that the total sum received, drawn for, or required to be remitted for the several services therein charged, including every receipt whatever, for which I am required to give credit in these accounts, is

Also, that the statement at the foot of this page contains a full and correct list of all abstracts of examination, and of all decisions on abstracts of examination, of the pay list of this regiment received between the of 186 (the date of the last pay list transmitted to the War Office being that for the period ended the 186) and the of 186 , the date of this pay list.

Also, that the total amount of the sums disallowed in the said decisions is credited in this pay list, in conformity with Article 21 of the explanatory directions, dated the 1st July 1848.

Also, that to the best of my knowledge and belief, both my sureties are now living; that the property of each is at least double that for which he is surety; and that they respectively reside at the places under-mentioned.

Names of sureties.	Places of residence

_____ *Paymaster.*

Declared and subscribed before me, at this day of 186 . } _____ *Justice of the Peace for* _____.

Witnesses { _____ *Commanding Officer.* _____ *Adjutant.*

FORM of DECLARATION of ATTESTATION of the ACCOUNTS of a MILITARY ACCOUNTANT.

I HEREBY solemnly and sincerely declare, That this account, comprised in folios, is just and true, according to the best of my knowledge, information, and belief; and I make this declaration, conscientiously believing the same to be true.

_____ *Military Accountant.*

Declared before me, at this day of 18 . } _____ *Justice of the Peace for* _____.

No

DESCRIPTION RETURN of who was apprehended [*or* "surrendered himself," *as the case may be,*] on the day of and was committed to confinement at on the day of as a deserter from [*insert regiment or corps*].

Age	
Height	Feet. Inches.
Complexion	
Hair	
Eyes	
Marks	
Probable date of enlistment, and where	
Probable date of desertion, and from what place	
Name and occupation and address of the person by whom or through whose means the deserter was apprehended and secured.	
* Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner, and upon what grounds.	

* It is important for the public service, and for the interest of the deserter, that this part of the return should be accurately filled up, and the details should be inserted by the Magistrate in his own handwriting, or, under his direction, by his clerk.

I do hereby certify, that the prisoner has been duly examined before me as to the circumstance herein stated, and has declared in my presence that he† a deserter from the abovementioned corps.

_____ *Signature and address of Magistrate.*
_____ *Signature of prisoner.*
_____ *Signature of informant.*

† Insert "is" or "is not," as the case may be

I certify, that I have inspected the prisoner, and consider him‡ for military service.

_____ *Signature of Military Medical Officer, or of§ private Medical Practitioner*

‡ Insert "fit" or "unfit," as the case may be; and, if unfit, state the cause of unfitness

§ No fee will be allowed to a private Medical Practitioner where a Military Medical Officer is stationed, unless it is shown that his services were not available

30 VICTORIÆ, CAP. XIV.

AN ACT *for the regulation of Her Majesty's Royal Marine Forces while on shore.*

[12*th April* 1867.]

30 & 31 VICTORIÆ, CAP. XXXIV.

AN ACT *for limiting the period of enlistment in Her Majesty's Army.*

[20*th June* 1867.]

WHEREAS it is expedient to alter the periods of enlistment now in use in Her Majesty's land forces: Be it enacted &c. Preamble.

I. From and after the passing of this Act no person shall be enlisted for the first term of his engagement to serve Her Majesty as a soldier for a longer period than twelve years, to be reckoned from the day on which the recruit shall have been attested for service. Twelve years the limit of enlistment.

II. Any person who now has or may hereafter have completed at least two-thirds of the first term of his enlistment may at any time thereafter, with the approbation of his commanding officer or other competent military authority, be re-engaged for such a period as shall complete a total period of twenty-one years in Her Majesty's service. Renewal of enlistment

III. Any soldier who shall have completed a total period of twenty-one years service may give notice to his commanding officer of his desire to continue in Her Majesty's service; and if his commanding officer or other competent military authority approves of such application he may be continued as a soldier, subject in all respects to the provisions of this Act and of the Mutiny Act and Articles of War, as if his term of service were still unexpired, until he shall have given three calendar months' notice to his commanding officer of his wish to be discharged, and the expiration of such notice. Continuance in Her Majesty's service after twenty-one years therein.

IV. Any soldier whose period of enlistment or of total service shall expire while he is serving on any foreign, colonial, or *Indian* station may be detained, and his service may be prolonged, for such further period as shall be directed by the commanding officer at the station there, not exceeding twelve months; but at the expiration of such prolonged service, or sooner, if the said commanding officer shall see fit, the soldier shall, unless he desires to remain there, be sent home at the public charge as in the case of soldiers invalided, with all convenient speed, and after his arrival he shall be discharged. On expiration of enlistment, soldiers on foreign stations to be sent home.

V. If any such soldier being in any of Her Majesty's colonies or possessions abroad desires to remain and to claim his discharge there, he shall, if such be his desire, give notice thereof to the governor through the commanding officer, whereupon it shall be lawful for such governor, if he sees fit, with the consent of the commanding officer, to permit such soldier to remain in such colony as a discharged soldier, and such soldier shall have no claim thereafter to be conveyed to his home in the United Kingdom or elsewhere. Unless he desires to remain in the colony or possession.

VI. In reckoning the service of a soldier for discharge under the provisions of this Act there shall be excluded therefrom such periods of time during which he has been Rules for reckoning service.

absent from his duty for any of the following causes: Imprisonment for any cause, save that of detention awaiting any trial which results in the acquittal and discharge of the prisoner from custody, desertion or absence without leave, exceeding five days, or as a prisoner of war, unless in the latter instance it shall appear to the satisfaction of a Court-martial to be summoned on his rejoining Her Majesty's service, that he was not taken prisoner through his own wilful neglect of duty, and that he rejoined as soon as he could and ought to have done.

Discharge on completion of service.

VII. Every soldier who shall have completed his period of service according to the provisions of this Act shall be entitled to his discharge, unless at the time of the expiration of such period of service he stands charged with the commission of any offence, in which case his period of service shall be prolonged, and his discharge deferred, until he shall have undergone his trial by Court-martial, and any punishment awarded against him. Every soldier, until he has received his discharge, shall remain subject to all the provisions of any Act that may be in force for punishing mutiny and desertion, and any Articles of War made in pursuance thereof.

Repeal of 10 & 11 Vic., c. 37, and 12 & 13 Vic., c. 73 as to soldiers enlisted under this Act.

VIII. After the passing of this Act every person enlisting or re-enlisting or any soldier re-engaging into Her Majesty's service shall be subject to the provisions of this Act; and the provisions of the Act of the Session holden in the tenth and eleventh years of Her Majesty's reign, chapter thirty-seven, intituled An Act for limiting the term of service in the army, and of the Act of the Session holden in the twelfth and thirteenth *Victoria*, chapter seventy-three, intituled An Act to limit the enlistment in the Artillery and other Ordnance Corps, shall be then wholly repealed as to such persons and soldiers.

Forms of attestation.

IX. The forms to be used on the attestation of a soldier, and on renewing his service, or on re-engaging, under this Act, shall be such as are set forth in the Schedule hereto, or as are prescribed in the Mutiny Act for the time being in force.

Enlistment for particular arm of or for general service.

X. Every person enlisting under this Act shall be enlisted for some particular arm or branch of service, and if he shall enlist for cavalry or infantry he shall be at liberty to declare and state the particular regiment of cavalry or infantry into which he desires to enlist, and he shall be attested for the same and be sent thereto with all convenient speed; but if no such statement or declaration be made by such person at the time of his attestation as aforesaid, then he shall be attested for general service, and it shall be lawful for the military authorities, at any time within twelve months after his attestation, to attach him to such regiment as to them shall seem to be most fitting and convenient for Her Majesty's service; provided always, that after the recruit shall have been attached to any regiment he shall not be removed or transferred therefrom save and except under the provisions of the Mutiny Act for the time being in force.

Short title.

XI. This Act shall be cited as the Army Enlistment Act, 1867.

SCHEDULE referred to in the foregoing Act.

DECLARATION to be made by RECRUIT on ATTESTATION.

I now residing in the parish of in the county of , do solemnly and sincerely declare, That to the best of my knowledge and belief I was born in the parish of (*a*) in or near the town of (*b*) in the county of (*c*) , and am years of age; that I am of the trade or calling of [*or* of no trade or calling, *as the case may be*]; that I am not an apprentice; that I am not married; that I do not belong to the militia, or to the naval coast volunteers, or to any portion of Her Majesty's land or sea forces; that I have never served Her Majesty by land or sea in any military or naval employment whatsoever, except ; that I have never been marked with the letter D; that I have never been rejected as unfit for Her Majesty's service on any previous enlistment; that I was enlisted at on the day of 186 , at o'clock M. by of , and that I have read [*or* had read to me] the notice then given to me, and understood its meaning; that I enlisted for a bounty of and a free kit, and have no objection to make to the manner of my enlistment; that I am willing to be attested to serve in the regiment of [*instead of the words* "in the regiment," *any words may be substituted which are applicable to the case as in or for general service in that command or branch of the service for which the enlistment may be made*] for the term of twelve years, provided Her Majesty should so long require my services, and also for such further term, not exceeding twelve months, as shall be directed by the commanding officer on any foreign station.

_____ *Signature of recruit.*

_____ *Signature of witness.*

Note (*a*), (*b*), (*c*). These blanks need not be filled up if the recruit is unable to give the requisite information.

DECLARATION to be made by a SOLDIER, or PERSON having been a SOLDIER, on renewing his service.

I do declare, That I am at present [*or* was, *as the case may be*,] in Captain company in the regiment [*the foregoing portion of this declaration may be altered to suit each particular case*]; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve Her Majesty, Her heirs and successors, for a further term of years [*to be filled up with such number of years as shall be required to complete a total service of twenty-one years in the army*], provided my services should so long be required, and also for such further term, not exceeding twelve months, as shall be directed by the commanding officer on any foreign station.

Declared before me _____

_____ *Signature of soldier.*

_____ *Signature of witness.*

30 & 31 VICTORIÆ, CAP. XLV.

An Act *to extend and amend the Vice-Admiralty Courts' Act*, 1863 (*a*).

[15*th July* 1867.]

Be it enacted, &c.

Short title.

I. This Act may be cited for all purposes as The Vice-Admiralty Courts' Act Amendment Act, 1867.

26 & 27 Vic., c 24, applied.

II. This Act shall be read as one Act with the Vice-Admiralty Courts' Act, 1863 (*b*).

* * * * *

Extended to the Straits' Settlements.

XVII. The Vice-Admiralty Courts' Act, 1863, shall, together with this Act, apply to any Vice-Admiralty Court now established or hereafter to be established in the *Straits'* Settlements.

26 & 27 Vic., c. 24, s. 23 extended to appeals from Vice-Admiralty Courts in Indian possessions.

XVIII. The limitation of the time allowed for appeals contained in the twenty-third Section (*c*) of the Vice-Admiralty Courts' Act, 1863, shall be held to apply to all decrees or orders pronounced in any Vice-Admiralty Court now established or hereafter to be established in any of Her Majesty's possessions in *India*.

(*a*) 26 Vic., c. 24.—*Ed.*

(*b*) No part of this statute applied to British India until section 23 was extended thereto by 30 & 31 Vic., c. 45.—*Ed.*

(*c*) 23. The time for appealing from any decree or order of a Vice-Admiralty Court shall, notwithstanding any existing enactment to the contrary, be limited to six months from the date of the decree or order appealed from; and no appeal shall be allowed where the petition of appeal to Her Majesty shall not have been lodged in the registry of the High Court of Admiralty and of appeals within that time, unless Her Majesty in Council shall, on the report and recommendation of the Judicial Committee of the Privy Council, be pleased to allow the appeal to be prosecuted, notwithstanding that the petition of appeal has not been lodged within the time prescribed.

APPENDIX.

[*The following Sections were accidentally omitted to be inserted in their proper place.*]

18 & 19 VICTORIÆ, CAP. XCI.

An Act *to facilitate the erection and maintenance of colonial lighthouses, and otherwise to amend the Merchant Shipping Act*, 1854.

[14*th August* 1855.]

Legal Procedure.

Part X of Merchant Shipping Act, 1854.

Jurisdiction in case of offences on board ship.

12 & 13 Vic., c 96

XXI. If any person, being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas or in any foreign port or harbour, or if any person, not being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas, is found within the jurisdiction of any Court of Justice in Her Majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such Court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits: Provided, that nothing contained in this Section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.

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24 & 25 VICTORIÆ, CAP. CXXXIV.

An Act *to amend the law relating to Bankruptcy and Insolvency in England.*

[6*th August* 1861.]

As to petition by or against trader or non-trader, followed by adjudication, in the foreign dominions of the Crown.

LXXV. The filing of a petition by or against a debtor, whether a trader or not, in any Court having jurisdiction for the relief of insolvent debtors in insolvency or bankruptcy in any of Her Majesty's dominions, colonies, or dependencies, and the adjudication of an act of insolvency or bankruptcy on such petition, shall, for the purposes of this Act, be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such debtor at the time of filing such petition, or of the filing the petition on which the adjudication of an act of insolvency or of bankruptcy shall have been made; and any creditor or creditors of such debtor whose debt or debts shall be of sufficient amount to enable him or them to petition for adjudication of bankruptcy under this Act may, at any time within two months after notice of such adjudication shall have been given in the *London Gazette*, petition for adjudication of bankruptcy under this Act against such debtor, and under such petition all such proceedings may be had and taken as are authorized and directed by this Act.

Where debtor who has been adjudged bankrupt, &c., in India or the colonies resides, or has property, in England, &c., power to obtain adjudication in England, &c., and proceedings thereupon.

CCXVIII. If any person who shall have been duly adjudged or declared bankrupt or insolvent in *India*, or any of the foreign dominions, plantations, or colonies of Her Majesty, shall be resident or shall be possessed of property in *England*, *Ireland*, or *Scotland*, or in any colony, plantation, or foreign possession of the Crown, it shall be lawful for the assignee, trustee, or other representative of the creditors of such bankrupt or insolvent to apply for and obtain an adjudication of bankruptcy, sequestration, or insolvency against such person in the Court of Bankruptcy in *England*, and in the proper Court in *Scotland*, *Ireland*, and such colony, plantation, or foreign possession of the Crown respectively, and by virtue thereof the same order and disposition shall be had and taken with respect to the person and property of the bankrupt or insolvent, as would have been if he had been originally adjudged bankrupt or insolvent by the Court or tribunal so applied to. Upon such application it shall not be necessary for the assignee, trustee, or other representative of the creditors of the person so declared bankrupt or insolvent as aforesaid to give proof of any act of bankruptcy or petitioning creditor's debt, or to produce any other evidence than a duly certified copy, under the seal of the Court, of the order or adjudication by which such person was found or adjudged bankrupt or insolvent.

Addendum.

30 & 31 VICTORIÆ, CAP. CXXIV.

AN ACT *to amend the Merchant Shipping Act*, 1854.

[20*th August* 1867.]

* * * * *

Power to governors, &c. to make regulations as to supply of lime or lemon-juice, &c.

VI. In any *British* possession out of the United Kingdom the governor or officer administering the government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon-juice and anti-scorbutics for the use of ships; and any lime or lemon-juice or anti-scorbutics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

* * * * *

Rules for medical inspection of seamen.

X. The following Rules shall be observed with respect to the medical inspection of seamen; that is to say—

* * * * *

(5.) In *British* possessions out of the United Kingdom the governor or other officer administering the government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

Offences by British subjects on board ships.

XI. If any *British* subject commits any crime or offence on board any *British* ship, or on board any foreign ship to which he does not belong, any Court of Justice in Her Majesty's dominions, which would have had cognizance of such crime or offence if committed on board a *British* ship within the limits of the ordinary jurisdiction of such Court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

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